EXTENSION OF THE EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1475

A BILL TO EXTEND THE EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT

JULY 20, 1981

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EXTENSION OF THE EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT

MONDAY, JULY 20, 1981

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 10:07 a.m., in room 3110, Dirksen Office Building, Hon. James A. McClure, presiding.

Present: Senators McClure, Humphrey, Murkowski, and East.

Also present: Charles A. Trabandt, chief counsel; and E. David Doane, counsel.

OPENING STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

The CHAIRMAN. The committee will come to order. This is a hearing on S. 1475, a bill that would amend the Energy Policy and Conservation Act by extending the expiration date of section 252 of the act from September 30, 1981, to June 30, 1985. The proposed expiration date is also the expiration date of titles I and II of the Energy Policy and Conservation Act. The purpose of this hearing is to receive the administration's views on two issues—the importance of extending the expiration date of section 252, and how long the extension should be.

The significance of these issues is derived from the fact that section 252 authorizes U.S. oil companies to participate in the international energy program. That program provides a mechanism for an oil allocation system to be utilized by the participating countries in the event of a major oil supply disruption.

Section 252 also provides a limited defense against any antitrust suits that may be brought against U.S. oil companies participating in the international energy program. The antitrust defense is limited to actions taken in implementing the allocation and information provisions of the program.

If section 252 is allowed to expire, the antitrust defense would no longer be available. The immediate results would be that the U.S. oil companies participating in the international energy program would be compelled to cease their participation. If that should occur, the allocation mechanism of the program could not operate effectively in the event of any serious disruption of oil supplies in the international oil market.

The Congress has extended the expiration date on four previous occasions. Three extensions occurred during 1979, and the fourth

occurred in March of this year when the date was extended from March 15 to September 30.

During a hearing held by this committee on March 2, prior to the most recent extension, we were told by administration witnesses that section 252 should be extended to allow time for an interagency group within the administration to complete a study of the adequacy of the section 252 provisions with respect to operation of the international energy program.

The committee was also informed that a major study of that program is being conducted within the International Energy Agency. We were told that the purpose of the study is to review the functioning of the IEA over the past 6 years and to recommend improvements in the ability of the IEA to respond effectively to international oil supply disruptions.

We are looking forward today to receiving progress reports and, I would hope perhaps, the reports on each of these studies. Appearing before the committee are witnesses from the Department of Energy, the State Department, and the Department of Justice. We will hear first from Mr. Thomas Newkirk, Deputy General Counsel for Regulation of the Department of Energy.

We also have Mr. Pierce Bullen, Acting Deputy Assistant Secretary for International Energy Policy, Department of State; and Mr. Ronald G. Carr, Deputy Assistant Attorney General, Antitrust Division, Department of Justice, together with others who accompany them who will be introduced by those gentlemen.

It would be my plan to hear the testimony of the witnesses, all three witnesses, before opening to questions.

[The text of S. 1475 follows:]

II

97TH CONGRESS
1ST SESSION

S. 1475

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

IN THE SENATE OF THE UNITED STATES

JULY 14 (legislative day, JULY 8), 1981

Mr. MCCLURE (for himself and Mr. JACKSON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 252(j) of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking "September 30, 1981" and inserting in its place "June 30, 1985".

The CHAIRMAN. Mr. Newkirk, you may proceed. Your entire statement has been received by the committee and you may summarize it, the high points, or give the statement as you see fit.

STATEMENT OF THOMAS C. NEWKIRK, DEPUTY GENERAL COUNSEL FOR REGULATION, DEPARTMENT OF ENERGY, ACCOMPANIED BY GEORGE BRADLEY, ACTING PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS

Mr. NEWKIRK. Thank you, Mr. Chairman. First I would like to introduce, sitting on my right, George Bradley who is the Acting Principal Deputy Assistant Secretary for International Affairs, the Department of Energy.

Mr. Chairman, we welcome the opportunity to present our views on your bill, S. 1475, which will extend the expiration date of the antitrust defense contained in section 252 of the Energy Policy and Conservation Act until June 30, 1985.

Section 252 facilitates oil company participation in the agreement on international energy programs in which the United States and other oil consuming nations have agreed to a system of oil sharing during major energy supply emergencies. As you noted in introducing your bill, participation by the United States in the international energy program is central to the pursuit of our international energy objectives.

Consultation and cooperation between international oil companies and the International Energy Agency is an essential ingredient in the successful operation of the international energy plan emergency sharing system. Accordingly, we believe that the proposal to extend the effectiveness of section 252 until June 30, 1985, best serves the Nation's foreign policy and energy interests. The 1985 date will synchronize the expiration of section 252 with the expiration of titles I and II of the Energy Policy and Conservation Act and will assure continuity of U.S. company participation in the international energy plan.

The IEP was signed in 1974 as the result of an effort by the United States to promote cooperation among the major industrial nations in dealing with the oil supply disruptions. There are presently 21 signatory nations to the IEP, and since its founding, the International Energy Agency has been the primary vehicle for international energy cooperation in the industrialized world.

The oil sharing system established under the auspices of the International Energy Agency provides a unified and coordinated response to potential future major oil supply interruptions and is intended to minimize the impact of such disruptions on the free world economy and on the security of the United States and its partners in the International Energy Agency.

The success of the oil sharing and information systems of the international energy program depends upon the voluntary cooperation of the international oil companies. Section 252 provides an antitrust defense for U.S. oil companies that participate in this program. Without this defense, the U.S. oil companies would not be willing to participate in these activities. The defense is contingent upon the oil companies complying with the procedures developed by the Department of Energy in conjunction with the antitrust

authorities of the Federal Government. These procedures are embodied in the "Voluntary Agreement and Plan of Action to Implement the IEP" which was entered into on March 21, 1976. At present, 21 U.S. oil companies, including both majors and independents, are participants in the voluntary agreement.

The Department of Energy, the Department of Justice, and the Federal Trade Commission have monitored industry particiation in the IEP closely. In their reports to Congress, the Justice Department and the Federal Trade Commission consistently have concluded that no anticompetitive effects have been experienced by reason of industry activities under the voluntary agreement. Consequently, we believe that there is no reason for limiting the extension of section 252 to a short term and that further limited extensions such as we have had over the last 2 years can only raise unwarranted questions in the minds of our allies as to our commitment to international energy cooperation.

We, therefore, strongly support the proposal in S. 1475 to extend the antitrust defense contained in section 252 on a more permanent basis. Extension until June 30, 1985, will indicate to our allies that we are sincere in supporting the mechanisms currently in place, which remains the best available way of responding to a severe international oil crisis.

That concludes my prepared statement, Mr. Chairman I will be happy to answer any questions that the committee may have.

[The prepared statement of Mr. Newkirk follows:]

STATEMENT OF THOMAS C. NEWKIRK
DEPUTY GENERAL COUNSEL FOR REGULATION
UNITED STATES DEPARTMENT OF ENERGY
BEFORE THE ENERGY AND NATURAL RESOURCES COMMITTEE
U. S. SENATE

JULY 20, 1981

Mr. Chairman:

We welcome the opportunity to present our views on S.1475, which will extend the expiration date of the antitrust defense contained in section 252 of the Energy Policy and Conservation Act (EPCA) from September 30, 1981, until June 30, 1985. This provision facilitates oil company participation in the Agreement on an International Energy Program (IEP), in which the U.S. and other oil consuming nations have agreed to a system of oil sharing during major supply emergencies.

As you have noted in introducing S.1475, participation by the United States in the IEP is central to the pursuit of our international energy objectives. Consultation and cooperation between international oil companies and the International Energy Agency (IEA) is an essential ingredient in the successful operation of the IEP emergency sharing system. Accordingly, we believe that it is necessary to extend the effectiveness of section 252 beyond September 30, 1981. We further agree that an extension of this provision to June 30, 1985, best serves the Nation's foreign policy and energy interests.

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The 1985 date will synchronize the expiration of section 252 with the expiration of Titles I and II of EPCA and will assure continuity of U.S. company participation in the IEP.

The IEP was signed in 1974 as the result of an effort by the United States to promote cooperation among major industrial countries in dealing with oil supply disruptions and reducing dependence on imported oil. There presently are 21 signatories to the IEP. Since its founding, the IEA has been the primary vehicle for international energy cooperation in the industrialized world. The oil sharing system established under the auspices of the IEA will provide a unified and coordinated response to potential future major supply interruptions, and should minimize the impact of such disruptions on the Free World economy and on the security of the U.S. and its IEA partners.

The success of the IEA oil sharing and information systems depends, in large part, upon the voluntary cooperation of the international oil companies. Section 252 provides an antitrust defense for U.S. oil companies without which they would not be willing to participate in the activities of the IEA. This defense is contingent upon the oil companies' compliance with procedures developed by the Department of Energy in conjunction with the antitrust authorities of the Federal Government. These procedures are embodied in the

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"Voluntary Agreement and Plan of Action to Implement the IEP" entered into on March 21, 1976. At present, 21 U.S. oil companies, including both major and independent oil companies, are participants in the Voluntary Agreement.

The Department of Energy, the Department of Justice, and the Federal Trade Commission have monitored industry participation in the IEP closely. In their reports to Congress, the Justice Department and the Federal Trade Commission consistently have concluded that no anti-competitive effects have been experienced by reason of industry activity under the Voluntary Agreement. Consequently, we believe that there is no reason for limiting the extension of section 252 to a short term, and that limited extension can only raise unwarranted questions in the minds of our allies as to the degree of commitment of the U.S. Government to international energy cooperation. We therefore strongly support your proposal to extend the antitrust defense contained in section 252 on a more permanent basis. Extension until June 30, 1985 will indicate to our allies that we are sincere in supporting the mechanism currently in place which remains the best available way of responding to a severe international oil crisis.

This concludes my prepared statement, Mr. Chairman. I would be happy to answer any questions the Committee may have.

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The CHAIRMAN. Thank you very much.
Mr. Bullen.

STATEMENT OF PIERCE K. BULLEN, ACTING DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL ENERGY POLICY, DEPARTMENT OF STATE, ACCOMPANIED BY JOHN FERRITER, DIRECTOR, OFFICE OF ENERGY CONSUMER COUNTRY AFFAIRS, DEPARTMENT OF STATE

Mr. BULLEN. Thank you, Mr. Chairman. It is a pleasure to present the views of the Department of State on the bill which you have introduced. I'm sorry that Robert Hormats, our Assistant Secretary for Economic and Business Affairs, was unable to come. He asked me to convey his regrets. He is in Ottawa at the Economic Summit.

I am accompanied by my colleague, John Ferriter at my left, who is the Director of our Office of Energy Consumer Country Affairs.

Our discussion today as you mentioned follows the similar discussion of last March at the time of the last extension of section 252, and without going into great detail, I would like to review a few of the reasons why we feel extension as you have proposed is essential to U.S. international policy.

The IEA is the cornerstone of cooperation among the industrialized countries in the field of energy. It provides vital support for our economic and political relationships with these countries. It provides a measure of protection and assures cooperation among our countries in the event of a serious oil supply disruption and insures cooperation in a field which otherwise could be divisive. It thus contributes fundamentally to our energy security.

An effective response by the industrialized countries to an oil supply disruption must rely heavily upon actions of the companies who actually handle the oil flowing into the consumer countries. The crisis of 1973–74 made it evident that governments had to coordinate their policies in order to avoid or resolve conflicts, and so the IEA emergency system was created. In turn, EPCA section 252 was enacted to allow U.S. companies to cooperate in implementing that system.

As I said, we strongly support its extension as proposed in S. 1475. At the last hearing we requested only a short extension in order to allow completion of parallel studies within the U.S. Government and in the IEA of issues which might call for amendment of it. The IEA review of the international energy program is not complete. This review is investigating primarily the need for and means and benefits of IEA action to deal with oil supply disruptions which are not large enough to justify activation of the formal emergency system. We expect IEA's review to be completed late in the fall.

In the meantime, the administration has concluded that in general, high levels of oil reserve stocks and reliance on market forces provide the most effective protection against oil supply disruptions, and we are encouraging other countries to join us in increasing the level of oil security stocks.

At the same time we have stated our view that it is not appropriate to develop a formal system that would commit the United States in advance to a specific course of action in responding to

small oil supply interruptions. Rather, should the need arise for cooperative action by IEA nations, measures can be formulated at the time to meet specific needs.

On the basis of this analysis, we support your proposal to extend the authority to June 30, 1985, but do not at this time propose amendment of EPCA section 252.

Before concluding I would like also to recall a commitment made by the administration in March to provide responses by the end of June to a series of questions posed by Senator Bradley on the general subject of oil supply crisis management.

Unfortunately, we did not succeed in meeting that deadline and I would like to apologize on behalf of the administration to Senator Bradley and to the committee for the delay. It has taken longer than anticipated because some of the questions posed raise fundamental issues which go to the heart of energy policy.

We fully recognize the urgency of the issue and expect to transmit the response within a matter of days.

In conclusion, I would like to restate our support for the extension as proposed. It is essential to insure the effectiveness of consumer country cooperation in oil crises and to maintain the credibility of U.S. international commitments.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Bullen follows:]

STATEMENT

OF

PIERCE K. BULLEN
ACTING DEPUTY ASSISTANT SECRETARY OF STATE
FOR INTERNATIONAL ENERGY POLICY

BEFORE THE

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

JULY 20, 1981

MR. CHAIRMAN,

IT IS A PLEASURE FOR ME TO PRESENT THE VIEWS OF THE DEPARTMENT OF STATE ON S. 1475 WHICH YOU HAVE INTRODUCED. ROBERT HORMATS, OUR ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS, ASKED ME TO CONVEY TO YOU HIS REGRET THAT HE COULD NOT MEET WITH YOU TODAY ON ACCOUNT OF HIS PARTICIPATION IN THE ECONOMIC SUMMIT IN OTTAWA. I AM ACCOMPANIED BY MY COLLEAGUE JOHN P. FERRITER, DIRECTOR OF OUR OFFICE OF ENERGY CONSUMER COUNTRY AFFAIRS.

S. 1475 WOULD EXTEND THE LIFE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT TO JUNE 30, 1985. AS YOU HAVE NOTED, MR. CHAIRMAN, SECTION 252 PROVIDES AUTHORITY FOR THE EXTENSION OF A LIMITED ANTITRUST DEFENSE TO U.S. OIL COMPANIES FOR THEIR PARTICIPATION IN THE IMPLEMENTATION OF THE ALLOCATION AND INFORMATION PROVISIONS OF THE AGREEMENT ON AN INTERNATIONAL ENERGY PROGRAM (IEP).

OUR DISCUSSION TODAY FOLLOWS ON A SIMILAR DISCUSSION LAST MARCH, THE TIME OF THE LAST EXTENSION OF SECTION 252. IN THAT DISCUSSION, WE ELABORATED IN DETAIL THE REASONS WHY

SECTION 252 IS ESSENTIAL TO U.S. INTERNATIONAL ENERGY POLICY AND SHOULD THEREFORE BE EXTENDED. WITHOUT GOING BACK OVER THE GROUND COVERED IN THAT AND PREVIOUS HEARINGS, IT IS NECESSARY TO POINT BRIEFLY TO THE IMPORTANCE OF COOPERATION AMONG THE INDUSTRIALIZED COUNTRIES IN THE FIELD OF ENERGY. THIS COOPERATION PROVIDES VITAL SUPPORT FOR A HEALTHY ECONOMIC AND POLITICAL RELATIONSHIP WITH THESE COUNTRIES, AND HENCE IS NECESSARY FOR THE NATIONAL SECURITY OF THE UNITED STATES AND OUR STRATEGIC INTERESTS.

AN EFFECTIVE RESPONSE BY THE INDUSTRIALIZED COUNTRIES TO AN OIL SUPPLY DISRUPTION MUST RELY HEAVILY UPON ACTION OF THE COMPANIES WHO ACTUALLY HANDLE THE OIL FLOWING INTO CONSUMING COUNTRIES. IN 1973-74, WHEN THERE WAS NO IEA EMERGENCY SYSTEM IN PLACE TO COORDINATE RESPONSES AMONG CONSUMING COUNTRIES, COMPANIES PLAYED A VERY HELPFUL ROLE IN THEMSELVES EFFECTING INTERNATIONAL ALLOCATION OF OIL TO MINIMIZE THE DISRUPTION IN CONSUMING COUNTRIES. HOWEVER, THEY FACED STRONG POLITICAL PRESSURES TO BEHAVE DIFFERENTLY BROUGHT TO BEAR BY INDIVIDUAL GOVERNMENTS.

THAT CRISIS, MADE IT EVIDENT THAT GOVERNMENTS NEED TO COORDINATE THEIR POLICIES AND THEIR APPROACHES TO COMPANIES IN ORDER TO AVOID OR RESOLVE CONFLICTS. THE IEA EMERGENCY SYSTEM WAS CREATED TO RESPOND TO THAT NEED.

IN TURN, EPCA SECTION 252 WAS ENACTED TO ALLOW U.S. COMPANIES TO COOPERATE IN THE IMPLEMENTATION OF THAT SYSTEM. WE THEREFORE DEPEND ON SECTION 252 AS A FOUNDATION FOR U.S. PARTICIPATION IN THE IEA, AND STRONGLY SUPPORT ITS EXTENSION AS PROPOSED IN S.1475.

AT THE SAME TIME, I WOULD RECALL THAT IN MARCH WE REQUESTED ONLY A SHORT EXTENSION OF THIS STATUTE IN ORDER TO ALLOW COMPLETION OF PARALLEL STUDIES WITHIN THE U.S. GOVERNMENT AND IN THE INTERNATIONAL ENERGY AGENCY OF ISSUES WHICH MIGHT CALL FOR AMENDMENT OF IT. YOUR COMMITTEE WAS MOST CONSIDERATE IN GRANTING THIS REQUEST.

IT IS INCUMBENT ON US TO REPORT TODAY ON THE STATUS OF THE TWO STUDIES. THE IEA REVIEW OF THE INTERNATIONAL ENERGY PROGRAM IS NOT AS YET COMPLETE. THIS REVIEW IS INVESTIGATING PRIMARILY THE NEED FOR, AND MEANS AND BENEFITS OF, IEA ACTION TO DEAL WITH OIL SUPPLY DISRUPTIONS NOT SO LARGE AS TO JUSTIFY ACTIVATION OF THE FORMAL IEA EMERGENCY SYSTEM. WE NOW EXPECT THE IEA TO COMPLETE THE REVIEW LATE IN THE FALL.

IN THE MEANTIME, THE ADMINISTRATION HAS CONCLUDED THAT, IN GENERAL, HIGH LEVELS OF OIL RESERVE STOCKS AND RELIANCE ON MARKET FORCES PROVIDE THE MOST EFFECTIVE PROTECTION AGAINST SMALLER AS WELL AS LARGE OIL SUPPLY DISRUPTIONS. WE ARE ENCOURAGING OTHER COUNTRIES TO JOIN US IN INCREASING THE LEVEL OF THEIR SECURITY OIL STOCKS. AT THE SAME TIME,

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WE HAVE ANNOUNCED OUR VIEW THAT IT IS NOT APPROPRIATE TO DEVELOP A FORMAL SYSTEM THAT WOULD COMMIT THE UNITED STATES IN ADVANCE TO A SPECIFIC COURSE OF ACTION IN RESPONDING TO SMALL OIL SUPPLY INTERRUPTIONS. RATHER, SHOULD A NEED ARISE FOR COOPERATIVE ACTION BY IEA NATIONS, MEASURES CAN BE FORMULATED AT THAT TIME TO MEET SPECIFIC NEEDS.

ON THE BASIS OF THIS ANALYSIS, WE DO NOT AT THIS TIME PROPOSE AMENDMENT OF EPCA SECTION 252.

BEFORE CONCLUDING, I WOULD ALSO RECALL A COMMITMENT MADE BY THE ADMINISTRATION DURING THE MARCH CONGRESSIONAL DELIBERATIONS TO PROVIDE RESPONSES BY JUNE 30 TO A SERIES OF QUESTIONS POSED BY SENATOR BRADLEY ON THE GENERAL SUBJECT OF OIL SUPPLY CRISIS MANAGEMENT. UNFORTUNATELY, WE DID NOT SUCCEED IN MEETING THIS DEADLINE, AND I WISH TO APOLOGIZE ON BEHALF OF THE ADMINISTRATION TO SENATOR BRADLEY AND TO THE ENTIRE COMMITTEE FOR THE DELAY. IT HAS TAKEN SOMEWHAT LONGER THAN ANTICIPATED BECAUSE SOME OF THE QUESTIONS POSED RAISE FUNDAMENTAL ISSUES WHICH GO TO THE HEART OF U.S. ENERGY POLICY. WE FULLY RECOGNIZE THE URGENCY OF THE ISSUE, AND EXPECT TO TRANSMIT THE RESPONSE WITHIN A MATTER OF DAYS.

IN CONCLUSION, I WOULD LIKE TO REPORT THE ADMINISTRATION'S STRONG SUPPORT FOR EXTENSION OF EPCA SECTION 252 FOR FOUR YEARS AS PROPOSED IN S. 1475. THIS IS ESSENTIAL BOTH TO ENSURE THE EFFECTIVENESS OF CONSUMER COUNTRY COOPERATION IN AN OIL CRISIS AND TO MAINTAIN THE CREDIBILITY OF U.S. INTERNATIONAL COMMITMENTS.

The CHAIRMAN. Thank you.
Mr. Carr.

STATEMENT OF RONALD G. CARR, DEPUTY ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION, DEPARTMENT OF JUSTICE

Mr. CARR. Thank you, Mr. Chairman. I appreciate the opportunity to testify today on behalf of the Department of Justice in support of S. 1475.

From its inception, the international energy program contemplated the use of industry advice and assistance in implementing its emergency allocation and information gathering provisions. The provisions, however, raise possible antitrust implications for U.S. oil companies that might be called upon to assist the IEA in carrying out the functions given it by the program.

In 1975, Congress provided in section 252 a limited antitrust defense to U.S. oil companies participating in voluntary agreements to assist the IEA. At the same time, the Congress directed the Attorney General, with the Federal Trade Commission, to monitor the development and carrying out of the voluntary agreements and plans of action authorized under this act in order to promote competition and to prevent anticompetitive practices and effects.

The Department of Justice places a very high priority on the responsibilities Congress has given it in monitoring oil company participation in IEA activities. Antitrust Division attorneys have monitored all but a handful of the approximately 160 industry meetings held in the 5 years since the effective date of section 252. The Department's reports to the Congress have described what has occurred at those meetings. We have constantly stated that we have discerned no adverse impact on competition or small businesses as a result of the activities of U.S. oil companies under the IEP.

In light of the continuing need for international cooperation on energy matters and the possibility of oil supply disruptions, we believe that continued availability of section 252's antitrust defense for U.S. oil companies, coupled with continued antitrust safeguards and appropriate monitoring is in the national interest.

Accordingly, the Department of Justice supports enactment of S. 1475 and the extension of the antitrust defense. Mr. Chairman, that concludes my prepared remarks. I would be happy to answer any questions that you or the committee may have.

[The prepared statement of Mr. Carr follows:]

Department of Justice

STATEMENT OF

RONALD G. CARR
DEPUTY ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISION

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

CONCERNING

S. 1475

EXTENSION OF THE ANTITRUST DEFENSE
ASSOCIATED WITH U.S. OIL COMPANY ASSISTANCE
TO THE INTERNATIONAL ENERGY AGENCY

ON

July 20, 1981

Mr. Chairman and Members of the Committee,

I appreciate the opportunity to testify today on behalf of the Department of Justice in support of S. 1475.

The proposed legislation would extend Section 252(j) of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6272(j), which is due to expire on September 30, 1981, to June 30, 1985. That section affords an antitrust defense to United States oil companies participating in voluntary agreements to assist in carrying out the allocation and information provisions of the International Energy Program (IEP). If that defense were not available, participating U.S. oil companies might very well reduce or discontinue their assistance to the International Energy Agency (IEA). Without U.S. company participation, the emergency oil sharing system of the IEA could not function. Loss of this system would eliminate an important international mechanism available to the industrialized countries for dealing with severe oil supply interruptions.

The 1973 oil embargo and the consequent sharp increase in world oil prices severely disrupted the economies of oil-importing nations. The United States and other industrialized countries recognized the need to take coordinated action to

meet future shortfalls and to take steps to lessen dependence on imported oil, and thereby reduce their strategic and economic vulnerability. Accordingly, these countries agreed at the Washington Energy Conference in February 1974 to create a framework for close cooperation. Following eight months of negotiations, on November 18, 1974, the United States and 15 other nations concluded an Agreement on an International Energy Program. The IEA, which was created by the IEP, now consists of 21 of the 24 OECD countries, and is the principal multilateral body through which the United States pursues its international energy objectives.

The centerpiece of the IEP Agreement is a system to handle oil supply interruptions which result in a reduction of the supplies available to an individual nation or all IEA members of more than 7 percent for a base period. The system involves the sharing of oil according to a carefully constructed formula in which each nation has an obligation to reduce its net imports by cutting demand and drawing on stocks. It requires governments and companies to submit to the IEA information on the oil market -- oil production, consumption, imports, and exports -- so that a determination can be made as to when to trigger sharing and how to allocate the available oil. Oil companies, with their sophisticated transportation and distribution networks, would play the key role in allocating supplies during an emergency.

The IEP clearly envisaged the use of international oil industry advice and assistance in implementing its emergency allocation and information gathering provisions and explicitly provided for the formation of an international advisory board from the oil industry to assist the IEA in ensuring the effective operation of emergency allocation measures. Industry expertise was also needed to develop information systems about oil markets. These provisions raised possible antitrust implications for U.S. oil companies that might be called upon to assist the IEA in carrying out the functions given it by the IEP. In 1975, the Congress provided an antitrust defense to U.S. oil companies participating in voluntary agreements to assist the IEA. Congress directed the Attorney General (along with the Federal Trade Commission) to "monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes [of the allocation and information provisions of the IEP]." 1/ Congress also set forth in Section 252 of EPCA certain procedures to be followed in developing and

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1/ Section 252(e)(1), EPCA, 42 U.S.C. 6272(e)(1).

carrying out voluntary agreements and plans of action that would allow U.S. oil companies to participate in implementing the allocation and information provisions of the IEP. These procedures include prior notification of industry meetings convened to advise the IEA, publication of meeting notices in the Federal Register, monitoring of industry meetings by U.S. Government representatives, and the compliation of full and complete records of such meetings, including verbatim transcripts where practicable. 2/

The Department of Justice has given a very high priority to the responsibilities given us by Congress concerning oil company participation in the IEA and has devoted substantial resources to carrying them out in an effective fashion. Antitrust Division staff attorneys have personally monitored all but a handful of the approximately 160 industry meetings held in the five years since the effective date of Section 252. The Department's reports to the Congress have described what has occurred at those meetings. We have consistently stated that we have not discerned any adverse impact on competition or small business as a result of the activities of U.S. oil companies under the IEP. 3/ This conclusion is based upon

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2/ Section 252(c), EPCA, 42 U.S.C. 6272(c).

3/ See, e.g., Eighth Report of the Attorney General, Pursuant to Section 252(i) of the Energy Policy and Conservation Act, as of September 30, 1980.

our surveillance of all industry activities undertaken in connection with the Voluntary Agreement and Plan of Action to Implement the IEP.

In light of the continuing need for international cooperation on international energy matters and the possibility of oil supply disruptions, we believe the continued availability of the statutory antitrust defense for U.S. oil companies coupled, of course, with continued antitrust safeguards and appropriate antitrust monitoring, is in the national interest. Accordingly, the Department of Justice supports enactment of S. 1475.

Mr. Chairman, that concludes my prepared remarks. I would be happy to try to respond to any questions you or any members of the Committee may have.

The Chairman. Thank you very much.

Mr. Newkirk, does the administration plan to submit its own bill to extend the expiration date of section 252?

Mr. NEWKIRK. We support your bill, but if you would like we can send up our own, plan if you prefer that.

The CHAIRMAN. If you have a difference as to what it ought to contain we would like to know that.

Mr. NEWKIRK. We have no difference.

The CHAIRMAN. All right. Thank you. What is the status of the interagency study on section 252 that was due on June 30?

Mr. NEWKIRK. It is approaching completion. In fact, what I hope was the final draft was typed over this past weekend, and I would expect that its submission is imminent.

The CHAIRMAN. That might become necessary before we can move forward on this legislation.

Mr. NEWKIRK. I understand that.

The CHAIRMAN. So we can expect that?

Mr. NEWKIRK. Soon; very, very soon.

The CHAIRMAN. Not a matter of hours but a matter of days?

Mr. NEWKIRK. Somewhere in that area, yes, sir.

The CHAIRMAN. But not weeks?

Mr. NEWKIRK. I hope not.

[Subsequent to the hearing Mr. Newkirk supplied the following:]

DOE/EP-0027 U.S. Department of Energy July 1981

Assistant Secretary for
Environmental Protection, Safety,
and Emergency Preparedness
Washington, D.C. 20585

DOMESTIC AND INTERNATIONAL
ENERGY EMERGENCY PREPAREDNESS

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I. INTRODUCTION

This Department of Energy report contains an analysis of domestic and international energy emergency preparedness issues. It responds to questions raised by members of the Senate Energy and Natural Resources Committee and others. It represents the efforts of an interagency task force and reflects Administration policy positions where specific statements are made to that effect.

II. WORLD OIL MARKET TRENDS, INTERRUPTION THREATS, IMPACTS

A. General Market Trends

The decade of the eighties, unlike the seventies, is starting with a common understanding by officials of major oil importing nations that oil is expensive and less than a reliable source of energy. The oil embargo of 1973/74, fluctuations in supplies during 1979 resulting from the Iranian upheaval, continuing concerns about the stability in the Middle East and the 1100 percent price increase for oil since 1970 have resulted in fundamental changes in the production and use of oil throughout the world.

A significant trend away from oil reliance has begun to emerge. World oil production peaked in 1979 at 62.4 million barrels per day (MB/D), and declined to 59.5 MB/D in 1980 (see Table 1). Capital investment in alternative fuels and more energy efficient equipment and buildings has been substantial. By 1990, assuming recent trends continue, U.S. imports could decline to as low as 2 MB/D, (DOE estimates in the National Energy Policy Plan range from 2 to 7 MB/D) and imports of other member countries of the International Energy Agency (IEA) could decline as well, reducing reliance on Middle East oil. It is also significant that non-OPEC oil producers have increased their share of the oil export market. In 1973, OPEC producers accounted for 56% of global production. By 1980, this decreased to 45% and is expected to decline further.

Throughout the 1980s, however, considerable reliance on Middle East oil will continue. Any substantial interruption in oil supply will have dramatic and major adverse impacts on importing nations, including the United States.

B. Market Structure

A number of structural changes have occurred in the production, refining and distribution of petroleum. The major international oil firms have less control over production rates and first sales of crude than in the early 1970s. These functions are now largely controlled by producing nations. Also, government to government transactions for oil have substantially increased.

However, there continues to be flexibility in the crude market as well as in refining and product distribution once the crude leaves the exporting nations. The degree of flexibility is not known but one has only to observe the 1979 market adjustments that were made to recognize what can be accomplished. Significant amounts of crude and products were and continue to be traded on the spot markets. In sum, while the very

flexible arrangements that existed in the early 1970s are now restricted, considerable capacity remains to adjust to rapid changes in oil production levels. This is especially so when ample stocks are available in consuming countries.

TABLE 1

WORLD CRUDE OIL PRODUCTION TRENDS
(million barrels per day)

	1973	1977	1979	1980
World Total	55.8	59.6	62.4	59.5
Communist	10.0	13.1	14.0	14.2
Non-Communist	45.8	46.6	48.4	45.2
- OPEC	31.0	31.2	30.9	26.9
- Non OPEC	14.8	15.4	17.5	18.3
Middle East	21.2	22.2	21.4	18.4

Sources: Department of Energy, "Monthly Energy Review," April 1981
Central Intelligence Agency, "International Energy Statistical Review".

C. Petroleum Supply Interruption Threats

In 1980, 41% of free world oil production came from Middle Eastern States surrounding the Persian Gulf. Nearly all of this 18 million barrels per day of crude oil passes through the Straits of Hormuz. This critical reliance on highly concentrated production and transportation systems poses a substantial threat of a severe supply interruption for some duration.

Since 1973 three relatively small interruptions have occurred. The first in 1973 resulted from a political decision by Arab OPEC nations to reduce oil production and exports to the United States. Their motivation was the Arab-Israeli conflict. A second interruption occurred in 1978/79 as a result of social turmoil in Iran resulting in sharply curtailed production levels and significant price increases. The third was the Iraq-Iran war which began in September 1980. In the first two cases world oil prices rose substantially, certain producing nations increased production, and consuming nations reduced consumption in response to higher prices. The Iraq-Iran war had little effect on the market because oil

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consumption was already declining, stocks that were at record levels were drawn upon, and other producers again increased production.

Petroleum supply interruptions can result from:

- political decisions by producers to sharply reduce production,
- internal upheavals within producing nations,
- external intervention by outside powers,
- natural disasters.

The likelihood that relatively minor interruptions will occur seems high based on the events of the 1970s. While they could have significant adverse effects, the ability of importing nations to withstand such events by relying on markets, not government allocation, and by assuring that disincentives to private sector stocks are removed is relatively good. The likelihood of more severe interruptions (deeper and/or longer) is low, but the adverse effects would be substantial as discussed in subsequent sections of this report. Importing countries must be adequately prepared for such events.

D. Impacts on IEA Member Countries

For any supply interruption the potential adverse impacts on importing nations are similar:

- higher oil prices,
- loss of wealth to the oil exporting nations,
- temporarily reduced economic activity,
- pressure on financial markets and trade.

Major importing nations such as the U.S., Japan, Germany, Italy and others differ in degree of reliance on imported oil. Shown below, based on 1979 data, are country-by-country data on oil import reliance as a proportion of total energy use.

TABLE 2

IEA OIL IMPORT RELIANCE, 1979

Country	Oil Imports (MB/D)	Total Energy Consumption (MB/D)	Imports as % of Total Energy Consumption
U.S.	8.2	37.1	22%
Germany	2.9	5.6	52%
Japan	5.4	7.7	71%
Italy	2.0	3.0	67%
United Kingdom	0.4	4.6	8%
Canada	0.2	4.7	4%
Other IEA	5.4	10.0	54%
Total	24.5	72.7	34%

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The Emergency Sharing System of the Agreement on an International Energy Program (IEP) can be activated for oil supply shortfalls exceeding 7% of IEA's normal consumption. In the absence of activation of the system, the burden of oil supply disruptions would be distributed by market forces and reflected in the world oil price. The IEP sharing system allocates available oil among member countries. This effectively limits each member country's net oil imports. For supply losses of 12% or greater, 10% of the supply loss is distributed in proportion to each member's oil consumption; the remaining supply loss is distributed among IEA members in proportion to their net oil imports during a specified base period. The IEP distribution of oil is therefore increasingly weighted toward a country's import level for severe disruptions.

For supply losses of 12% or greater, each member is obliged under the IEP to reduce oil consumption by 10%. The remaining shortage can be dealt with by any combination of reduced consumption, increased production, increased non-oil imports, or stock drawdown.

Table 3 illustrates the distribution of burden imposed by the IEP sharing system for disruptions ranging from 12% to 40% of IEA base period consumption (3.5 to 14 MB/D). Although changes in base periods affect the calculation, the relative position of the members is more stable.

In a disruption of 20% of IEA oil consumption, the U.S. would lose 7% of total energy consumption while Japan would lose 17% of its total energy consumption. For a very severe disruption (26% of IEA consumption) the U.S. loss rises to 9%, while the Japanese loss would be 24%.

This analysis shows the IEA member countries:

- have differing degrees of vulnerability, reflecting oil import dependency and the nature of specific disruptions, and

- vary as to the level of protection needed to ensure their ability to withstand a severe supply interruption under the terms of the IEP emergency sharing agreement.

The link between the energy vulnerability of IEA members and their political and security vulnerability is direct and inescapable. Oil has proved to be a powerful instrument of political pressure. Vulnerability to such pressure could cause allies to withhold support for U.S. diplomacy. It could also stimulate subtle attempts to curry favor with oil exporting countries, which could weaken cooperation in other policy areas. The IEP oil sharing agreement helps other oil vulnerable nations resist these political pressures.

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TABLE 3

RELATED DISTRIBUTION OF IMPORT LOSS UNDER THE IEP SHARING FORMULA

IEA Shortfall Depth	Country	Import Loss as a Fraction of Base Period Oil Imports	Import Loss as a Fraction of Base Period Oil Consumption	Import Loss as a Fraction of Base Period Total Energy Use
4.2 MB/D	USA	28%	11%	5%
(12% Consumption)	West Germany	13%	13%	7%
	Japan	14%	13%	9%
7 MB/D	USA	42%	17%	7%
(20% Consumption)	West Germany	27%	27%	13%
	Japan	27%	27%	17%
9 MB/D	USA	51%	21%	9%
(26% Consumption)	West Germany	37%	37%	18%
	Japan	37%	36%	24%
14 MB/D	USA	75%	31%	13%
(40% Consumption)	West Germany	61%	61%	29%
	Japan	61%	59%	39%

Assumes full compliance with IEP sharing system. Base period data for 1980. The burden is the amount which each member must either forego or make up by stockdraw and increased production or increased non-oil imports.

III. DOMESTIC PREPAREDNESS - SEVERE INTERRUPTIONS

A. Background

The economic losses inflicted by a major disruption in oil supplies are due to three main factors: (1) the increase in oil prices and reduction in oil supplies raise production costs and reduce productive capacity, (2) the U.S. must pay more to foreign producers for oil imports, which reduces national income, and (3) aggregate demand declines because of the economic uncertainty created by the disruption and because of the rapid wealth transfer from consuming nations to foreign producers. These economic losses may also be exacerbated by institutional rigidities in wages and prices and inappropriate government policies.

The resulting losses in output, employment and income and the associated hardships cannot be eliminated either by emergency response plans or by government subsidies for synthetic fuels, solar energy or other substitutes for imported oil. This stems from the fact that oil, whether imported or domestically produced, is a major factor in our economy and any large reduction in supply must ultimately translate into a reduction in output. Moreover, even if substitute fuels are available to some degree, a large, sharp increase in oil prices cannot be assimilated in the short run without substantial economic impacts. Even if oil imports were completely eliminated, major disruptions in world oil markets would be telegraphed to the U.S. economy through increases in domestic oil prices and a loss in exports to Japan, Western Europe and other oil-import-dependent trading partners whose economies would be damaged. Emergency response plans are important and can help in the adjustment process, but the main problem is the limited flexibility of any industrialized economy to adjust to sharp increases in the price of so basic a commodity as oil.

B. Petroleum Stocks

Since the basic problem is the inability of the economy to adjust rapidly without substantial losses, the development of adequate levels of petroleum stocks that can be drawn down in an emergency is one of the most direct and effective solutions to the problem because it reduces the size of the adjustment required. Use of both private and government-owned stocks are effective in reducing shortfalls in petroleum supplies and the associated economic losses and national security threats. U.S. oil stocks are presently at an all-time high level. Combined private and government stocks, as measured by criteria of the International Energy Agency, now

total 243 days of imports, considerably more than held by any other major importing country.

The Strategic Petroleum Reserve (SPR) as of July 1, 1981, contained about 160 million barrels, and approximately 40 million barrels are expected to be added by the end of this fiscal year. With 200 million barrels in the SPR and the large volume of private stocks, the U.S. will have very substantial protection against major supply disruptions. The Administration is committed to increasing this protection as rapidly as feasible and will press ahead with capacity development and oil acquisition for the 750 million barrel reserve.

Government policy can also be effective by reducing disincentives to private oil stockpiling and other forms of self-insurance and by reducing institutional barriers to fuel switching, power wheeling and other adjustment mechanisms that can increase the flexibility and resiliency of U.S. productive capacity. Petroleum price controls and allocation, whether actually in place or held in standby status, are the largest and most pervasive disincentive to self-insurance by the private sector. Oil companies, distributors, and end-users will not develop adequate stocks or adequately diversify sources of supply if they expect the government to preempt inventory profits on those stocks by price controls and to ensure the prepared and the unprepared alike a "fair share" of petroleum supplies at a price substantially lower than can be obtained on the spot market.

C. Emergency Response Options

In addition to ensuring that private and SPR stocks are adequate and that barriers to economic adjustment are minimized, an effective strategy must also establish what actions the government will or will not take during a petroleum supply disruption. There are basically two options: the kind of price controls and allocation strategy relied upon during the past eight years and a strategy of basic reliance on the market. 1/ In addition, there are two suboptions which have received considerable attention in conjunction with the market reliance strategy: a fee on oil imports and a mechanism, such as a tax cut and increase in transfer payments and grants to States, to redistribute Federal tax revenues to consumers and the States. These four options are examined below.

1/ Basic reliance on the market does not preclude limited Government involvement in the event of a major disruption. The President has numerous authorities available for appropriate actions in the absence of the Emergency Petroleum Allocation Act. See footnote on page 11.

Price Controls and Allocation

Strategy Description. Under this strategy, domestic oil prices are held below market levels and supplies are allocated according to government priorities and preferences by regulation. This strategy attempts to reduce transfers from consumers to domestic oil producers and distributors by holding down oil prices. 1/ Oil products are allocated according to historical use with certain priority activities first in line. The strategy can only prevent or reduce the domestic part of the wealth transfer--foreign oil prices are beyond direct U.S. government control. To prevent domestic producers from receiving any wealth transfer, the government controls real domestic crude oil prices at predisruption levels. Domestic crude oil price controls are not sufficient to prohibit refiners and distributors from pricing their products high enough to clear the market. To avoid this, refiners and downstream distributors must be prohibited from charging more than a government-dictated mark-up over average crude oil costs.

However, since all refiners do not have the same access to price-controlled "low cost" domestic oil, further regulations are needed to avoid the politically untenable situation of some consumers having to pay greatly higher prices for gasoline and other products than other consumers. The remedy used in the past was a system of cash payments among refiners, whereby those refiners with greater than average access to price-controlled oil paid more import-dependent refiners an amount calculated to approximately equalize average refiner acquisition cost. In effect, this system, known as the entitlements system, taxed the use of domestic oil and subsidized the importation of foreign oil.

During normal times, suppliers generally allocate petroleum to those purchasers willing to pay the highest price. Price controls limit the price that can be legally charged, thus other allocation procedures must be found. Allocation procedures may also be necessary because incentives for anti-competitive practices may exist. With the selling price determined by average cost and with margins frozen, integrated refiners could have an incentive to supply their

1/ The National Petroleum Council (Emergency Preparedness for Interruption of Petroleum Imports, April 1981) ... has proposed no price controls at the wellhead but controls on refiners' and distributors' margins. This approach, at least in theory, would eliminate most of the wealth transfer to distributors and refiners but allow the entire transfer to producers. Thus domestic oil prices would not be dampened to the same extent as under "full controls," but the effects on allocation efficiency and the need for complex regulation and a large, costly bureaucracy would be about the same.

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own retail outlets preferentially during disruptions, at the expense of independent retailers. Independent retailers would demand that the government remedy the situation. The remedy used in the past has been to freeze the relationship between suppliers and purchasers and to require suppliers to allocate supplies based on historical usage. Suppliers were required to sell an equal fraction of base period sales to all their historical non-priority customers.

These regulations tend to insulate existing purchasers from competitive pressures and make it difficult for more efficient refiners and distributors to expand their market shares. The government would presumably again establish a detailed system of priority categories whose members would be entitled to a larger fraction of historical use than other users. In the past this list has included farmers, fishermen, homeowners, parcel delivery, military, newspapers, and many others.

There is one final layer of regulations that would be required to address a problem associated with the first several months of the disruption: gasoline lines. In a major supply disruption, prices will begin to rise very quickly. If price controls are imposed before U.S. and world prices reach levels that would reduce oil demand to the new levels of supply, lines will form at retail gasoline, diesel, and general aviation fuel outlets. This condition would persist until U.S. refiners could identify, bid for, and obtain new crude oil supplies on world markets. To deal with the lines at the retail gasoline outlets, the regulatory strategy calls for imposition of gasoline rationing, or at least an attempt to do so.

Evaluation. Because oil prices would be lower in the domestic market than in the world market, U.S. demand would be higher, encouraging imports and adding some upward pressure on world oil prices. The somewhat higher world prices would increase the size of the economic rents paid to foreign oil producers, that is, foreign producers would be subsidized at the expense of domestic producers. The effects of these higher OPEC rents may offset the effect of lower oil prices in the U.S. economy.

More important, oil supplies would necessarily have to be allocated on the basis of data that is always out of date. Allocation systems cannot accurately reflect recent growth or decline in demand among areas or among firms and individuals, and they cannot anticipate nor accurately adjust for shifts

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in demand caused by uncertainty about supplies or the differential impacts of higher oil prices. Thus some areas and users are allocated larger supplies than they would have demanded at a competitive price while other areas and users receive less than they would have demanded. In past applications of gasoline allocation, for example, supplies have generally been ample in most rural areas and on interstate highways, but long queues were created in many cities. It is safe to assume that these shortcomings would increase substantially in more major interruptions.

Such misallocations and the price controls seriously impact output and employment. They increase production costs, as shorted producers attempt to substitute more expensive inputs for oil they would have gladly paid a higher price for. Oil is used disproportionately for less valuable uses because higher valued uses are not allowed to compete for more than their "fair share." Productivity and consumer welfare are also damaged by the long lines that form at gas stations because demand exceeds supply at the controlled price and because the gasoline is allocated on the basis of where it was needed a year ago rather than where it is needed now. For a major disruption of 10 MB/D in OPEC supplies (about 2.7 MB/D in U.S. imports) the time spent in gasoline lines is estimated to cost U.S. consumers some $2-3 billion just during the 3-4 months it would take to implement a gasoline rationing plan. The allocation system would also intensify the shortage for the average user because of off-the-top allocations to State set-asides and to various categories of legally privileged users who face no incentive to conserve, a wide-open opportunity to hoard, and an artificially low price to boot. In 1979 certain "priority" users were entitled to 100% of their "current needs," which was defined at whatever they said it was.

In addition to these impacts on producers and consumers, price controls and allocation would require huge bureaucracies at both the Federal and State levels. It is estimated that a system of price controls, allocation and gasoline rationing would cost $2-3 billion per year to administer and would cost the private sector an additional $2-3 billion for compliance activities. The hundreds of pages of complex regulations required would be subject to various interpretations and often legal challenges. Political influence and political expediency would play a major role in the operation of the system. Once established, political constituencies

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would develop quickly, making it difficult to dismantle the system after the emergency is over, as has been amply demonstrated.

Market Reliance

Strategy Description. This strategy relies on the market to price and allocate petroleum supplies domestically. 1/ It is based on the principle that markets which are most efficient and effective in allocating resources during "normal" times will also serve as the best, though perhaps imperfect, allocator during supply disruptions, even severe disruptions. It also recognizes that major supply disruptions not only reduce the supply of petroleum but they also create huge uncertainties and major shifts in demand. Thus it is especially important during major supply disruptions to use every drop of oil as efficiently as possible, to encourage conservation and additional oil production, and to respond quickly to the shifting patterns of demand.

Evaluation. Oil prices in the world market will be somewhat lower under a market strategy compared with price controls because there would be no subsidy provided for imports through an entitlements program. Domestic petroleum prices, however, will be higher under a market strategy. The Department of Energy estimates that world crude prices during a major disruption of 9.4 MB/D would increase from $38/B (1981 first quarter base level) to a peak of $119/B in the very short run, and then perhaps subside somewhat as substitution possibilities become more available. This assumes that the IEP emergency sharing system is in effect. Gasoline and distillate prices could reach peaks of somewhat more than $3.00 per gallon in the U.S. market, approximately $1.00-$1.40 (50-70 percent) higher than under price controls. On the other hand, lines would be eliminated under a market strategy, except possibly for occasional, brief shortages which would be quickly eliminated by supplies responding to the higher prices.

1/ Authority will be available under the Defense Production Act to allocate oil supplies for national defense purposes should that become necessary during a major disruption. Other authorities also exist that could be used to restrict demand, encourage additional domestic oil production, encourage fuel switching, increase fuel-use efficiency, and encourage private stock drawdown by reducing the tax impact of such action. These authorities include: Sections 106 and 202 of the Energy Policy and Conservation Act (EPCA), Title II of the Emergency Energy Conservation Act of 1979, Sections 202(c) and (d) of the Federal Power Act, Section 404 of the Powerplant and Industrial Fuel Use Act, the waiver authority under Section 110(f) of the Clean Air Act, and Section 473 of the Internal Revenue Code.

The overall rate of inflation during a disruption will be determined to a large extent by monetary policy. The Administration is committed to a policy of steady money growth to reduce inflation. If monetary policy is used in this way to maintain overall price stability in the face of an oil shock, oil prices will grow relatively more rapidly and other prices relatively less rapidly under a market strategy than under controls and allocation, but the overall rate of inflation will be roughly similar under the two strategies. In fact, with monetary policy maintaining a steady growth in nominal income, inflation will be slightly less under the market strategy compared to controls and allocation since output and employment will probably be somewhat higher.

Conservation, fuel switching, and domestic oil production will be maximized as millions of individuals and firms respond to rising oil prices. These decisions can best be made on a decentralized basis at the grass roots level by the millions of consumers and producers who are most knowledgeable about their own circumstances and the alternatives available.

Individual decisions by producers and distributors in response to changing relative prices will also provide the most rapid and effective response to any shortages that may develop in a region due to a disproportionate loss in supplies by refiners that serve the region or if such refiners give up oil under the IEP sharing agreement. While existing contracts between suppliers and their customers may cause some stickiness in the responsiveness of the market, higher prices in one region will quickly bid away crude and product from other regions to balance the burden. These adjustments will be made more rapidly and more efficiently in response to price signals than under price controls and allocation, where adjustments in regional supplies from outdated historical patterns would have to await decisions by government bureaucrats on each case or class of cases, using information that is inevitably incomplete and outmoded in comparison to what is available to the market on a day-to-day basis.

Due to its reliance on a decentralized flexible response, the market strategy will be better able to deal with uncertainty than will a regulatory approach. The length and depth of a disruption will not be known at the outset. Nor will the disruption be of constant, uniform size. This strategy accommodates uncertainty by relying on many decision-makers and the ability to respond quickly. The less concentrated

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the decisionmaking authorities, the greater the diversity of response, and the less the chance that a central decision-maker--who at the outset of past emergencies has consistently overestimated the severity of oil supply disruptions--will cause widespread damage by decisions that later prove to be wrong or substantially off the mark.

A decentralized response strategy that relies on prices also provides strong signals for the private sector to prepare for disruptions in advance and to take actions during the disruption that reduce the damage. Refiners, distributors, and end-users--from farmers to rent-a-car firms--would have greater incentives to build oil stockpiles, if they knew that prices will be allowed to rise and the government will not allocate supplies during disruptions. Opportunities for legitimate, socially-beneficial gain provide these incentives. Similarly, utilities and industrial oil users would in many cases find it in their self-interest to install multi-fuel capacity for use during periods of high oil costs.

Import Fee

Strategy Description. A fee on imported oil has been proposed by a number of people as a means to reduce payments to OPEC and the adverse effects on the U.S. economy. Authority exists under Section 232 (b) of the Trade Expansion Act to impose such a fee during major disruptions in oil supplies.

As oil prices rise during supply disruptions, the United States and other oil importing nations will pay higher prices for fewer barrels of oil. If the United States, perhaps in concert with its oil-importing allies, can slow the rise of oil prices and can reduce their ultimate level by an import fee, a portion of this wealth loss may be avoided. This assumes that a fee on imports, by reducing demand for imports, will reduce world oil prices. Price may not fall if oil producers cut back production by the amount of the demand reduction.

Evaluation. A fee would raise the price of both imported and domestic oil above world market levels, which may induce some additonal production in the U.S. and further reduce demand. If a fee prevents world oil prices from rising as high as they would have otherwise, the United States (and all other oil-importing nations) would pay less for oil imports, even though U.S. consumers would be paying higher prices at the pump, the difference being the fee.

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This additional tax on the American consumer would be difficult to explain and support during a period when oil and other prices are already rising rapidly.

The effects on output and employment of an oil import fee are difficult to forecast. The positive effect of reduced payments to OPEC may be offset by the higher domestic prices for oil and the lower quantities of oil imported. There is also the uncertainty about whether some foreign oil producers will cut back production to try to offset the dampening effect of a fee on world oil prices. This is particularly likely if the disruption is the result of a politically motivated embargo.

A fee would be more effective and more beneficial to the U.S. if other importing countries also imposed fees. However, other members of the IEA have shown little enthusiasm for fee strategies, possibly because most European nations already tax motor gasoline heavily. Discussions have centered on levels of imports with the mechanisms for achieving these targets left to each nation's discretion. Even if the IEA members were to agree in principle on a coordinated fee, it would be very difficult to reach agreement on the size of the fee, on the timing and coordination of implementation, and on how the fee would relate to existing agreements on demand restraint and oil sharing under the International Energy Program (IEP).

Emergency Tax Cut and Increase in Transfer Payments

Regardless of which of these emergency response strategies is followed, a major disruption in oil supplies is likely to cause a temporary increase in domestic oil prices. Such disturbances should not be countered with expansionary quick-fix monetary and fiscal policy measures. Instead, the Administration's commitment to growth oriented tax and budget policies, lower inflation and a strong dollar should be renewed and intensified. In particular, the program of monetary restraint should be reaffirmed. Also, emergency tax rate reductions to enhance output in the energy and non-energy sectors should be implemented and financed out of revenue increases generated through higher oil prices. In these circumstances price disturbances and output disturbances will be short-lived and localized. A general acceleration of inflation and prolonged recessions can be avoided.

One approach is an emergency tax reduction and increase in transfer payments which could be implemented during major oil supply disruptions. The tax reduction and increased transfer payments could be handled through the existing income tax and income transfer programs, such as Social Security, Supplemental Security Income, and AFDC. A portion of the funds could also be distributed to the State governors for redistribution to meet special needs in their States. By using these well established systems it is estimated that a tax cut and income transfer approach could be implemented more quickly and at substantially lower cost than a system of price controls, allocation and rationing. This approach has another advantage over price controls in that the latter provide assistance in direct proportion to the volume of oil products used (big users receive a larger subsidy than small users), which not only discourages conservation but may also be questionable on equity grounds.

Preliminary analysis indicates that for an emergency tax reduction and transfer payment system to be successful, it must avoid the kind of detailed targeting proposed by the Carter Administration in its gasoline rationing plan. An overly complicated system that attempts to provide precise equity for every area and category of consumer can neither be implemented quickly at the onset of a disruption nor be administered soundly and fairly.

Consideration has been given to providing preauthorization for an emergency tax reduction and transfer payment system and to require the President to develop a standby system for approval by the Congress. Our preliminary analysis indicates that further analysis and contingency planning on this subject should continue. Questions need to be resolved about the feasibility of designing and enacting standby authority in advance for a system that would be workable and suitable for use during circumstances which cannot be accurately forecasted and which may not occur until some time in the future.

D. Conclusions

The Administration is convinced that the welfare and interests of the American people will be best served if the government follows a policy of making sure that the nation has adequate insurance in advance to ameliorate the effects of major oil suppy disruptions and, in the event of a disruption, of allowing the market to do the job it does best--allocating scarce resources efficiently and effectively among competing demands. For this reason the Administration is opposed to enactment of any petroleum allocation or price control authority, including extension of the Emergency Petroleum Allocation Act. It is essential that we proceed with the

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development of the SPR as rapidly as feasible and also ensure that the private sector has proper incentives for self-insurance and that institutional barriers to endurance and flexibility in the economy are removed. No other action could have a more salutary effect on the preparedness and endurance capability of producers and consumers alike than to guarantee that domestic price controls and allocation of oil for civilian purposes will never again be imposed.

Adequate levels of private and government stocks and reliance on the market will ensure that the adverse effects of oil supply disruptions are minimized and that the various groups of producers and consumers and different regions of the country will be treated equitably. An import fee has no compelling virtues. It involves government interference in private sector productive decisions and hence could easily introduce undesirable and costly distortions. The possibility of developing a system of emergency tax rate cuts and income transfers should be analyzed further, and questions should be resolved about preauthorization of such a system. Finally, to insure a strong dollar and prevent a new outbreak of general inflation, oil supply disruptions must be greeted with a firm and non-accommodative monetary response.

IV. INTERNATIONAL PREPAREDNESS - SEVERE INTERRUPTIONS

A. Background

In the event of a severe petroleum supply disruption, oil importing nations have several alternatives for response.

- Stockdraw to increase supplies available for consumption during a disruption.
- Surge Production, including increased domestic production of any energy source.
- Increased Imports of non-oil energy supplies.
- Foregone Consumption of petroleum products.

Each of these options involves economic costs.

The major oil importing nations have agreed, in the Agreement on an International Energy Program (IEP), to take certain measures in the event of a major international petroleum disruption to distribute available oil supplies among IEA members. These measures include demand restraint, stock drawdown, and the international sharing of oil.

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The IEP sharing system allocates available oil among member countries. This effectively limits each country's net oil imports. A country's imports are effectively limited to its calculated supply right minus its current production.

More specifically, the IEP emergency sharing system may be activated when the IEA group of twenty-one member countries as a whole ("general trigger") or an individual IEA country ("selective trigger") experiences a 7% or greater shortfall of available petroleum supplies, measured against final oil consumption during a specified base period (the previous four quarters, with a one quarter lag).

The IEP provides that in the case of a general trigger, the participating countries will distribute oil supplies available to them on the basis of "supply rights", derived in accordance with a prescribed sharing formula. A country's supply right is equal to its final oil consumption during the base period (the previous four quarters with a one quarter lag), minus a demand restraint obligation (7% of base period consumption if the shortfall is between 7 and 12%, and 10% of consumption, for shortfalls of 12% or greater), and minus a share of the remaining shortfall determined through an emergency stock drawdown calculation, which is based on a country's share of net oil imports in the previous calendar year. To the extent that oil supplies which are destined for an IEA country exceed or fall short of that country's allotted share (supply right), oil supplies are allocated through a system of voluntary offers from participating oil companies to insure that the total of oil production and oil imports received by each country is limited to its supply right. This process differs slightly in the event of a "selective trigger" in that only the affected country is expected to reduce its demand and only by 7% with its residual shortfall made up by other member countries on the basis of their respective oil consumption in the base period.

The IEP emergency sharing system can be activated by the IEA Governing Board when the IEA Secretariat finds that the members have incurred or can reasonably be expected to incur a reduction in available oil supplies exceeding 7% of consumption as compared with the base period. However, the IEA Governing

Board may, by special majority, prevent activation. The special majority to block a general trigger requires an affirmative vote by 15 of 20 members and 60% of the combined voting weights (the U.S. holds 31% of the combined voting weights). To block a selective trigger, a vote of 17 of 20 voting members is required. 1/

This emergency system is designed to achieve a specified distribution of oil and reduce spot market oil price pressures by limiting each IEA country to a specified share of available supplies. Thus, during severe disruptions, IEA members will act cooperatively to reduce oil price increases below what would occur without cooperative efforts by importers. Collective action can be effective in dealing with the OPEC cartel while assuring the distribution of available quantities of oil among IEA nations according to an agreed formula.

When an oil supply interruption occurs, a passive strategy will result in lower oil consumption and higher oil prices. The high oil prices will cause enormous losses in GNP. The IEA sharing agreement provides a framework for the U.S. to coordinate its actions with similar actions by all other members of the IEA. Collective responses to a major disruption can significantly reduce the GNP losses of an interruption and the cost to the U.S. of preparing for an interruption.

The Administration is committed to the International Energy Program because the IEP provides the basis for reducing unnecessary conflicts among key consuming countries for dealing effectively with disruptions in cartelized world oil markets and therefore for protecting the interests of the American people. An inherent part of this commitment is the need to assure that the IEP emergency system will function as effectively as possible.

The IEP is a program in evolution. Its members have been forthright in recognizing the work which needs to be done to allow it to improve its effectiveness.

1/ These numbers change slightly if Norway, which has an associate arrangement with the IEA, agrees to participate in sharing prior to such a vote.

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B. U.S. Obligations Under the IEP

Participation in the IEP emergency system imposes a number of obligations on the U.S.:

- Maintenance of emergency oil stocks (and/or standby production capacity or fuel switching capacity) sufficient to sustain oil consumption for 90 days with no net imports as defined by IEP.

- Maintenance of the ability to reduce consumption of oil by 10% or, as an alternative, readiness to drawdown oil stocks in excess of the 90-day commitment sufficient to supply up to 10% of normal consumption.

- Participation in the IEP emergency sharing system by both the U.S. Government and U.S. private firms. This has the effect of limiting net oil imports during a disruption.

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C. Oil Stocks and Demand Restraint

The U.S. currently has in place the necessary statutory authority and government programs to implement its commitments to the IEP.

Oil Stocks

Oil stocks are the most effective mechanism for mitigating the adverse economic affects of an oil supply disruption. Private U.S. firms have historically held more than the required 90 days of stocks on a gross basis. At present, with the reduced import levels fostered by the 1979-1980 oil price increases, U.S. gross oil stocks stand at 243 days of imports, as displayed in Table 4. The U.S. Government owned SPR, currently holding 27 days, could hold from 107 to 375 days at its 750 million barrel level, depending on actual import levels when fill is completed.

TABLE 4

SUMMARY OF CURRENT AND PLANNED U.S. OIL STOCK POSITION

	July 1, 1981 Position		Planned Position (Late Eighties)	
	(MB)	(Import Days) 1/	(MB)	(Import Days) 1/
Private Stocks 2/	1300	217	1000+	143+ to 500+
SPR Stocks	160	27	750	107 to 375
Total Gross Stocks 2/	1460	243	1750+	250 + to 875+

1/ Assumes net import level of 6 MB/D currently and 2 to 7 MB/D in the late eighties; actual level for January through May 1981 was 5.3 MB/D. DOE estimates 1990 imports at 2 to 7 MB/D (see NEPP). Totals may not add due to rounding.

2/ Includes only primary stocks.

Although virtually the entire content of the SPR is available for emergency drawdown, the precise usability of private stocks is less certain. A portion of these is physically unavailable for use, such as that volume necessary to fill pipelines and processing facilities. Additional volumes are working inventories at refineries and distribution terminals. Drawdown of these volumes would impose costs in the form of inefficiencies, distorted distribution systems, and spot shortages. Thus the actual endurance represented by the

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gross private stock levels is certainly less than the total number of days. One estimate that may be optimistic places the minimum required private stock level to protect working inventories at roughly 700 million barrels (based on 1973 NPC analysis, updated for year-end 1980). Past experience with DOE price and allocation controls in effect has shown fuel specific regional problems when U.S. stock levels fall near the 1 billion barrel level. It is important to note that stocks of a particular product and seasonality are important factors in evaluating minimum acceptable levels. Without price and allocation controls in place the distribution system would be more efficient.

In summary, U.S. stocks are well in excess of our IEP obligation at present, and this excess will expand further as the SPR is filled. When the SPR is completely filled, the U.S. expects to hold more than 3 times its obligation to the IEP.

The actual draw rates for private stocks during a severe disruption will depend on market forces, and is unlikely to be smooth throughout a disruption. These illustrative quantities provide only a very rough indicator of the endurance available. Because of the importance of strategic stocks, the U. S. Government is committed to seeking improved stockpile policies for IEA members so as to extend their endurance in the event of a severe disruption.

Demand Restraint

The demand restraint obligation in the IEP requires a 10% reduction in consumption in the face of a 12% reduction in supplies (7% in a 7% disruption) or, as an alternative, the use of stocks in excess of the 90 import-day requirement to support the specified share of consumption. Market price effects may operate to reach this level of reduction in consumption, the speed of such adjustment varying with the circumstances. Table 5 displays the price increases which would yield a 10% reduction in consumption for various assumptions about short term demand elasticity.

TABLE 5

PRODUCT PRICE INCREASES WHICH YIELD 10% DEMAND REDUCTION FOR VARIOUS CONSTANT DEMAND ELASTICITIES

Assumed Demand Elasticity	Necessary Price Increase to Yield 10% Demand Reduction
-0.50	23%
-0.20	69%
-0.15	102%
-0.10	187%

The economic losses associated with this adjustment can be minimized by relying on the efficiency of the market adjustment mechanisms.

It is entirely possible for the U.S. to meet its demand reduction requirement even if its oil demand is less elastic than other importers. For example, in a 12% IEA supply loss, the U.S. may be able to meet its demand restraint requirement with an aggregate U.S. demand elasticity 82% of IEA demand elasticity.

DOE estimates of market balances during severe disruptions support the possibility that a price adequate to balance global oil markets will yield 10% or greater U.S. consumption reduction, the speed of such adjustment varying with the circumstances.

If demand restraint is not achieved by market price effects, the U.S. has adequate authority, discussed below, to impose import quotas or fees as necessary to reduce consumption. This might occur, for example, if the IEP sharing system substantially depressed market prices or if U.S. firms sought to build up stocks.

Finally, under Article 16 of the IEP, the substantial excess of U.S. stocks over the 90-day IEP requirement could be used to support consumption in excess of the 90% level.

D. U.S. Participation in the Emergency Sharing System

The IEP provides that when the emergency sharing system is activated, the allocation of oil shall take place as necessary among the member countries. Those countries with actual or projected supplies in excess of their supply rights are to allocate oil to those member countries whose supplies are less than their supply rights.

The emergency sharing system has been designed to achieve this allocation primarily through voluntary oil company actions. Facilitated by the antitrust defense afforded by Section 252 of the EPCA, U.S. companies are expected to make voluntary offers to supply to other IEA countries any oil which the U.S. is obligated to furnish.

The possibility of mandatory government intervention, in the event the voluntary system fails, provides a considerable incentive for U.S. companies to make the sharing system work. Voluntary international oil movements are to be preferred because they are less intrusive, maximize reliance on the market, and avoid having government direct the movement of cargo volumes. They also take advantage of the oil industry's expertise, and its ability to shuffle oil movements smoothly among destinations at the least cost.

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The President, if he deems it necessary, may take any one or a number of different actions to foster voluntary compliance or to require mandatory compliance. Some of these include:

- o Distribution of oil from the SPR to firms voluntarily diverting oil to IEA member nations.
- o Limited domestic allocation of crude oil to such firms as necessary to achieve compliance with IEP obligations.
- o Appropriate adjustments for such firms if imports are limited by an oil import quota or fee.
- o Mandatory international allocation orders to U.S. firms as necessary to achieve compliance with IEP obligations.

Moreover, because the volume of oil to be allocated from the U.S. to other IEA member nations generally depends on the volume of projected net imports that would result in the U.S. exceeding its supply right, the President could, if he deemed it necessary, take any one or a number of different actions to reduce U.S. oil imports. Some of these include:

- o SPR drawdown to depress U.S. import demand.
- o Import fees or quotas to reduce U.S. imports.

The Department of Justice has reviewed the available statutory authorities (including the Energy Policy and Conservation Act, the Trade Expansion Act, the Defense Production Act, and the International Emergency Economic Powers Act) and concluded that they are adequate for all of these actions.

The policy of the Administration is to rely on market mechanisms and the voluntary system of allocation under the IEP. The authorities referred to would only be used if the President determines that some government action is needed to foster voluntary compliance by companies in the IEA sharing system or to require mandatory compliance. Such a determination would involve evaluation of the costs and benefits of each option.

The use of the quota authority would yield a limitation on oil supplies in domestic markets and a consequent increase in domestic oil prices over the already elevated level induced by the disruption itself. The result would be an increase in the domestic economic costs of the oil disruption, to the benefit of other oil importers for whom prices would fall reflecting the reduction in effective U.S. demand. Thus the quota action would be designed to preserve the benefits of the IEP allocation system associated with demand reduction, resulting world oil price reduction, and reduced wealth transfers to exporters.

The application of an import fee would yield similar, but more uncertain, results. There would be substantial difficulties associated with determining the appropriate size of such a fee to achieve the precise oil import ceiling specified in the IEP. This difficulty, severe enough in normal markets, would be exacerbated by the complexities of a severely disrupted market. However, the availability of EPCA Section 251 authorities for international allocation orders would enable the U.S. to meet its obligations if the fee were set too low.

The President has the authority to use oil from the SPR to compensate domestic oil companies for oil offered under the IEA system or to generally dampen demand for imports.

DOE plans to develop a contingency plan for a limited crude oil "fair-sharing" system to backstop voluntary offers, for activation should the President deem it necessary to meet our IEP obligations. The aim of this system will be to assure U.S. oil companies that the burden of supplying oil to the IEA sharing system will be shared equitably, if necessary through government ordered transfers of crude oil among them. It is the opinion of the Department of Justice that the President has authority to implement such a fair-sharing system under EPCA Section 251. In our planning for a fair-sharing system, we will be focusing on a very narrow system in order to minimize adverse effects on market decision-making and efficiency.

The decision on whether and when to exercise limited domestic crude oil allocation authority will be made by the President in light of circumstances during the disruptions. However, in considering alternatives the President will also consider the costs which such a system would impose.

Reliance on the market is the most effective approach not only to ensure the most efficient use of available petroleum supplies but also to achieve equitable treatment of the various sectors of the economy and regions of the country. This is true regardless of whether the IEP sharing formula is triggered or not, since there is nothing in the sharing arrangement which would tend to make the regional impact within the U.S. more equitable or less equitable.

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E. Adequacy of IEA Stock Policies

The stock position and stock policies of IEA members vary widely. The least import dependent nations (e.g., the United Kingdom, Canada, and the U.S.) hold very high stocks in comparison to their imports. These nations are prepared to support their economies for extended periods at drawdown rates which would compensate for a large fraction of their oil loss.

Table 6 compares the stock positions of the U.S. and the other major IEA importers, but only part of the stocks shown are in fact usable. Together, the U.S., the FRG, Japan and Italy account for more than 75% of total IEA imports. As can be seen, the U.S. is in a better position to deal with a severe interruption than more heavily import dependent nations.

Because of the importance of strategic stocks, the Administration is committed to seeking improved stockpile policies for IEA members so as to extend their endurance in the event of a severe disruption.

Each IEA member is responsible for financing its 90 import-day stockpile. Approaches to financing vary widely among the members, reflecting their capabilities, the nature and history of government-industry relations, the nature of each member's oil market, stockpile costs, and the extent to which each member chooses to exceed the 90 import-day minimum requirement. A wide array of financing approaches have been adopted usually in combination, including the imposition of minimum stockholding requirements on refiners and marketers, joint government-industry financing, stockpile subsidies, and outright government stockpiling. Joint stockpile financing policies would eliminate the flexibility which each nation requires to deal with its own set of conditions. It is very unlikely that joint financing could be agreed to or would effectively improve the strategic protection afforded by oil stocks, and it might even cause deferral of national decisions to increase protection levels.

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TABLE 6

IEA STOCK LEVELS

	Stock Levels April 1981 (MB)	Actual 1980 Imports	Stock Levels (Import Days at 1980 Rates)
USA	1460 1/	6.3	232
FRG	361	2.6	137
Japan	442	4.9	90
Italy	163	2.0	84
Other	880	4.6	190
Total IEA	3306	20.4	162
IEA without U.S.	1846	14.1	131

1/ Includes 160 MB SPR; import data excludes territories.

A priority for the IEA should be to ensure that member countries increase strategic reserves. Some other areas of policy coordination are probably less feasible, and in some cases they are undesirable. For example, it does not appear likely that the IEA could agree on a coordinated import fee that would be acceptable to all members because national conditions vary so dramatically. Moreover, it is not clear that an import tariff would work or that on balance it would be beneficial to the importing country.

V. INTERNATIONAL PREPAREDNESS-SMALL INTERRUPTIONS

As described in Section II of this report, there is a real risk of interrupted oil markets over the next decade. Their frequency and duration will depend on numerous political and economic developments, most of which are beyond the control of IEA members. Proposals for coordinated IEA government action to attempt to moderate oil price increases in such markets are under consideration within the IEA.

The United States has concluded that reliance on market pricing is the most effective mechanism for achieving the flexibility necessary to deal with uncertainty but will continue consultations with IEA members on ways of fostering international cooperation in dealing with small interruptions.

Table 7 displays the contraction in oil consumption induced by higher oil prices in 1978-1980.

TABLE 7

WORLD OIL MARKET 1978-1980

	1978	1979	1980
World Oil Production (MB/D)	60.2	62.4	59.5
- of which OPEC	29.8	30.9	26.9
World Oil Price ($/B) (Year-end FOB)	$13.05	$29.35	$36.69
IEA Oil Consumption (MB/D)	39.0	39.2	36.1
U.S. Oil Consumption 1/	18.8	18.5	17.0

1/ Excluding territories.

During this period nominal oil prices nearly tripled--a shock roughly equal to the 1973 shock. With few exceptions, the IEA governments allowed the pass through of higher world oil prices in their domestic markets. The U.S. dismantled its price control program January 1981, when President Reagan eliminated the last vestiges of the system which had been in place since 1974.

The result of rising prices was a contraction of 3 MB/D in IEA oil consumption (62% of which was by the U.S.). This contraction in consumption allowed a significant build-up of oil stocks in spite of the 1980 loss in oil production. This combination of market responses proved adequate to prevent the outbreak of the Iran/Iraq war from driving oil prices much higher; actual prices paid for oil subsequently fell over the first half of 1981.

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The oil importers are generally somewhat less vulnerable to oil price shocks in the future because of lower oil dependence, and more confident of their ability to adjust to further shocks.

TABLE 8

IMPROVEMENT IN U.S. OIL REQUIREMENTS

	1973	1978	1980
U.S. Oil Consumption (MB/D)	17.3	18.8	17.0
U.S. Real GNP (Billions CY 80 dollars)	2107	2413	2486
Ratio of GNP to Oil Consumption (Index: 1973 = 100)	1.00	1.05	1.20

Table 8 displays the improvement in U.S. oil reliance between 1978 and 1980. Through July 10, 1981, U.S. oil consumption is running about 1.3 MB/D below the comparable 1980 period, while economic growth is estimated at approximately 2.4% (real) over the comparable 1980 period. In addition, private oil stocks remain at record high levels.

Had oil consuming countries relied more heavily on price controls or mandated stockdraws in response to the 1979 price increases, they might have been less well prepared for the consequences of the Iran/Iraq war. This experience illustrates the value of market pricing in dealing with the uncertainty which we expect will characterize oil markets for the foreseeable future. There are unavoidable economic costs associated with the adjustment to sudden contractions in oil supplies. The market mechanism is able to achieve the necessary adjustment more efficiently than government intervention.

The IEA has considered various proposals for influencing oil market prices in tight market conditions when the sharing system is not activated. The measures under consideration include: data systems to permit continuous monitoring of the oil market; encouragement of national measures to promote demand restraint, high indigenous energy production and fuel switching; hortatory discouragement of resort to the spot market; stock policy guidance; measures to deal with country supply imbalances; increased emergency oil stock requirements; and improved government-industry relations.

In IEA deliberations on this subject, the United States has strongly emphasized the Administration's belief that high levels of oil reserve stocks and reliance on market forces provide the most effective protection against smaller as well as large disruptions. The U.S. is exploring with other

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countries what minimum oil stock requirements are desirable. It is not appropriate to develop a system that would commit the United States in advance to a specific course of action in responding to small oil supply interruptions. Rather, should a need arise for cooperative action by IEA nations, measures can be formulated at that time to meet specific needs. Consequently, no antitrust defense for subtrigger oil company actions is being sought.

For these reasons, the Administration supports reliance on the market. The Administration continues to support close consultation with IEA members and would not rule out future actions in the event of an interruption depending on circumstances.

VI. ANTITRUST DEFENSE

Section 252 of the Energy Policy and Conservation Act provides a defense against litigation under Federal or State antitrust law for actions taken by private firms to develop or carry out voluntary agreements or plans of action to implement the allocation and information provisions of the International Energy Program. This protection covers certain pre-emergency activities as well as actions taken when the emergency sharing system is activated by a supply shortfall of 7% or more.

Twenty-one U.S. oil companies having international business dealings voluntarily cooperate in the IEA's activities as "Reporting Companies." Without the EPCA antitrust defense, it would be difficult, if not impossible, for the firms to cooperate with the U. S. Government to fulfill our obligations under the IEP.

The EPCA antitrust defense is available only for activities of oil companies which are necessary "to develop or carry out voluntary agreements or plans of action to implement the allocation and information provisions of the International Energy Program." The existing "Voluntary Agreement and Plan of Action," adopted in March 1976, prescribes the method of holding meetings of the industry participants and the requirements for their activities during an emergency. It sets forth several antitrust safeguards that must be observed, such as the monitoring of industry meetings by U.S. Government observers and recordkeeping of those sessions. As contemplated by the Voluntary Agreement, antitrust "approval" or "clearance" letters periodically are issued by the Secretary of Energy to extend the antitrust defense to specific company data submissions to the IEA, or consultation with the IEA Secretariat, under conditions and for limited periods of time specified in such letters. These letters may be issued only after the

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Secretary of Energy consults with the Secretary of State, and only with the concurrence of the Attorney General after the Attorney General has consulted with the Federal Trade Commission.

The EPCA Section 252 antitrust defense has proven itself a valuable and necessary measure to allow U.S. participation in the IEP. The Administration therefore seeks its extension to June 30, 1985. The Administration is considering whether some amendment to Section 252 might be desirable, primarily to streamline its implementation.

The CHAIRMAN. If a disruption in international oil supplies should occur and the shortfall is not severe enough to trigger the IEA oil sharing program, how would the Department of Energy deal with that problem?

Mr. NEWKIRK. Domestically the administration intends to rely upon market forces to reduce demand and to achieve a balance between supply and demand.

Internationally at this point the IEA is engaged in a study of what steps should be taken to deal with what the IEA Secretariat has described as a subcrisis situation. The results of that will not be known probably until later this year, but in general again the administration believes that market forces should suffice to resolve any shortfall that occurs.

The CHAIRMAN. In the subcrisis area that answer is clear and at least insofar as I am concerned probably suffices, but in the event of a shortfall or interruption that is severe enough to meet the trigger test of the international plan, what authority would the administration have for its allocation of domestic oil after the expiration of EPCA?

Mr. NEWKIRK. Insofar as it is necessary to allocate domestic oil in order to enable or encourage oil company participation in international allocation, it is our opinion that section 251 of EPCA contains adequate authority for the President to order such allocation, again noting that it must be tied to a finding that it is necessary to order such domestic allocation to support our international obligations.

The CHAIRMAN. Senator Jackson asked a similar question in our prior hearing and the answer to that question at that time was it is premature to answer.

I wonder if you might be able to answer it now more fully for the record?

Mr. NEWKIRK. I would be pleased to provide a fuller answer for the record, but I think that it is the administration's opinion and the Department of Justice's opinion that section 251 of EPCA contains the authority that is necessary to support our international obligations.

[Subsequent to the hearing Mr. Newkirk supplied the following:]

Department of Energy
Washington, D.C. 20585

10 AUG 1981

MEMORANDUM

Subject: Authority of the President under Section 251 of the Energy Policy and Conservation Act to Require Limited Domestic Petroleum Allocation in Support of the United States' Obligations Under the International Energy Program

This memorandum addresses the question of whether section 251 of the Energy Policy and Conservation Act, 42 U.S.C. 6271, (EPCA) authorizes the President to allocate crude oil among domestic oil companies if he deems such action necessary to enable the United States to meet its international allocation obligations under the Agreement on an International Energy Program (IEP). 1/ We conclude that section 251 provides such authority. 2/ This authority does not, however, encompass comprehensive petroleum price and allocation controls of the type initiated under the Emergency Petroleum Allocation Act (EPAA).

Section 251 of EPCA provides in pertinent part:

> (a) The President may, by rule, require that persons engaged in producing, transporting, refining, distributing, or storing petroleum products, take such actions as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any

1/ TIAS 8278, November 18, 1974.

2/ Section 251 authorizes the President to require international allocation of petroleum. This opinion is concerned with the possible domestic aspects of such international allocation.

> person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. . . . (Emphasis supplied.)

For purposes relevant here, the IEP establishes a system in which the participating nations agree to share the oil available for importation in the event of a supply disruption. In the event the international petroleum allocation system is activated during or in anticipation of a severe petroleum supply disruption, a participating nation whose normal domestic production and actual net imports would exceed its "supply right" shall have an "allocation obligation" that requires it to supply, directly or indirectly, the excess to other participating nations. See IEP Articles 7, 12-14. The IEP requires that each nation take the necessary measures in order that allocation of oil will be carried out, but does not prescribe any particular measures. See IEP Article 6.

The starting point for statutory construction is, of course, the words of the statute itself. United States v. American Trucking Associations, Inc., 310 U.S. 534, 543 (1940). Here, the plain language of the statute provides that the President may require persons in the petroleum industry to "take such action as he determines to be necessary" to enable the United States to meet its obligations under the IEP relating to the international allocation of petroleum. The only limitation in section 251 on the scope of the President's authority is the requirement that the President determine that the required action is necessary to enable the United States to meet its international obligations. 3/

Thus, if the President determined that it was necessary to initiate a domestic crude oil allocation and price control system in order to meet our international allocation obligations under the IEP, he could do so pursuant to

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3/ We note that EPCA section 251 also expressly permits the President to regulate the price of allocated oil if he determines such action necessary to enable the United States to meet its IEP obligations relating to the international allocation of oil.

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section 251. For example, without suggesting that the President would make such a determination in any particular circumstances, it is possible that the President could find such domestic allocation necessary in order to obtain the participation of United States' oil companies in meeting the United States' allocation obligations under the IEP. This situation could arise if the participating companies believed that otherwise they would bear a disproportionate burden, either vis-a-vis each other or vis-a-vis non-participating companies, in domestic markets because of their participation in allocating cargoes that they controlled to foreign destinations. In this regard, the Governing Board of the International Energy Agency, which under Article 6 of the IEP is charged with deciding on "the practical procedures for the allocation of oil and on the procedures and modalities for the participation of oil companies" in the IEP, has called for participating nations to establish so-called domestic "fair sharing" arrangements under which companies giving up oil for international allocation are not disadvantaged, relative to other suppliers in the same country, as far as access to that country's available petroleum supply is concerned. The Governing Board considers such arrangements necessary to assure the participation of oil companies in the international oil sharing system and it would not be unreasonable for the President to make a similar determination.

Despite the plain language of section 251 and the nexus between domestic crude oil sharing and our international obligations, certain questions may arise concerning the scope of section 251.

Arguably, the absence of express legislative history supporting the use of section 251 for domestic crude oil allocation if necessary to meet our international obligations suggests that Congress did not intend in section 251 to authorize such allocation. Here, however, where the language of section 251 is clear, the absence of legislative history concerning its use for limited domestic allocation does not imply that its plain meaning should be truncated. While it cannot be denied that the legislative history materials generally describe the use of section 251 to mandate international allocation of oil, rather than possible domestic allocation, this is explained simply by the fact that comprehensive domestic price and allocation controls were in existence under the EPAA when section 251

was adopted. Nothing in the legislative history, however, suggests that section 251's authority was to be limited to mandatory international allocation orders or that the EPAA was to be the exclusive authority for any domestic allocation. 4/

In a case arising under section 232(b) of the Trade Expansion Act, 19 U.S.C. 1862(b), the Supreme Court had occasion to interpret the words "such action ... as [the

4/ It may be that Congress assumed that any domestic allocation would be carried out under the authority of the EPAA rather than section 251, but even had this assumption been made it would not suggest that Congress intended the EPAA to be the exclusive authority for any domestic crude oil allocation or that Congress intended to limit section 251 to direct international allocation. Indeed, where Congress intended an authority to be exclusive, it specifically so provided in section 251. See section 251(c)(2); See also EPCA section 252(h), inter alia, making section 252 the sole authority for oil company participation in certain aspects of the IEP.

Section 252 of EPCA provides an antitrust defense to oil companies participating in accordance with that section in the international allocation and information provisions of the IEP. The legislative history of section 252 seems to preclude the availability of that defense for domestic activities of oil companies relating to international allocation. S. Rep. No. 94-26, 94th Cong., 1st Sess. 43 (1975). It could be urged that sections 251 and 252 were intended to be companion provisions and that, accordingly, the limitations on the scope of 252 indicates a legislative intent similarly to limit the scope of 251. Apart from the absence of any manifestation of such a legislative intent, this argument fails to recognize that there is a substantial difference between granting authority to the President to require limited domestic allocation in support of our international obligations and granting oil companies antitrust immunity to enable them to manage the domestic petroleum market. Congress is far more likely to do the former than the latter. Indeed, in section 252(h) of EPCA, Congress expressly precluded use of the Defense Production Act immunity provision for any allocation program under EPCA or under the EPAA.

President] deems necessary." FEA v. Algonquin SNG, Inc., 426 U.S. 548 (1976). There the statute authorized the President to take "such action ... as he deems necessary" to adjust imports that threaten the national security. In that case, an import fee imposed by the President under section 232(b) was challenged on the ground that the section authorized only a "direct" limitation on imports by use of a quota. The Supreme Court held that the statutory language clearly granted the President a measure of discretion in determining what actions were necessary, id. at 561. The Supreme Court noted that while most of the congressional debate on the provision was in the context of granting the President the power to impose quotas, nothing in the debates reflected an understanding that the President's authority was so limited, id. at 567. Consequently, we believe this case supports our reading of section 251 notwithstanding the lack of legislative history materials expressly confirming our conclusion.

Moreover, in determining congressional intent with respect to particular language, it is appropriate to assess other provisions of the same statute. Section 251(c)(1) provides that any rule under section 251 shall be consistent with the objectives in section 4(b)(1) of the EPAA. Those objectives virtually all relate to domestic concerns, such as protection of the public health, safety and welfare, maintenance of public services and agricultural production, preservation of a competitive petroleum industry, allocation of suitable oil to refiners in the United States and equitable distribution of crude oil and products among all regions and areas of the United States and all sectors of the petroleum industry. The reference in section 251 to these domestic concerns reflects Congress' awareness that international allocation of necessity would have domestic consequences and, at the least, indicates that section 251 can be employed to take those domestic actions that prove necessary, as a practical matter, effectively to fulfill our international obligations.

It may be questioned whether section 251's authority to impose mandatory international allocation makes "necessary" any limited domestic allocation. Put differently, if the President can require United States petroleum companies to allocate internationally, or has other possible means for meeting United States IEP obligations, arguably it never would be "necessary" to allocate crude oil domestically to ensure company participation in international allocation.

As the Supreme Court recognized in FEA v. Algonquin SNG, Inc., supra, however, where any one of several different actions may achieve the same end and the statute provides that the President may take such action as he determines necessary, the President has the discretion to decide among those alternatives, even where the alternative chosen is not the most "direct" means of achieving the goal. The cases teach that such a Presidential decision, in an area affecting our foreign relations, is entitled to substantial deference. See generally, e.g. Chicago & Southern Airlines, Inc. v. Waterman Steamship Corp., 333 U.S. 103 (1948); United States v. Curtiss-Wright Export Corp. 299 U.S. 304 (1936).

That the President might find it more appropriate or effective to utilize a domestic fair sharing mechanism to achieve voluntary cooperation by oil companies rather than mandatory orders for international allocation is certainly possible given the nature of the IEP sharing system. That system rests primarily on voluntary company cooperation and participation, recognizing that without the active, willing support of international oil companies the IEP sharing system would be well nigh impossible to accomplish. The Congress recognized this fact in its enactment of section 252 of EPCA, affording the companies an antitrust defense to facilitate their participation in the IEP system.

In this context, it is clear that section 251 would permit a Presidential finding that it is "necessary" to impose a mandatory limited domestic allocation system in order to secure the swift and sure cooperation of oil companies in fulfilling our international obligations. It would be inconsistent with the contemplated operation of the IEP system and with the broad language of section 251 to limit the authority in that section to mandatory international allocation orders; the IEP itself does not make such orders the sole means by which member nations may fulfill their obligations and the IEA's plans for dealing with severe disruptions place primary reliance on voluntary company participation facilitated, if necessary, by domestic fair sharing procedures.

The Assistant Attorney General in charge of the Lands and Natural Resources Division has advised us that the Department of Justice concurs in the conclusions and the analysis in this memorandum.

R. Tenney Johnson
General Counsel

The CHAIRMAN. You are not hanging your hat on other emergency procedures for the President but just on section 251?

Mr. NEWKIRK. With respect to domestic allocation in support of our international obligations, I am just hanging my hat on section 251 of EPCA. There are a lot of other authorities that can be used in other ways to support oil company international allocation such as, for example, the use of the strategic petroleum reserve or perhaps some sort of import quota and other devices, but for allocation, very limited domestic allocation, I am hanging my hat solely on section 251.

The CHAIRMAN. Mr. Carr, is that your opinion also?

Mr. CARR. I am not personally acquainted with this problem, but I do understand that that is the view of those in the Department who have looked into it.

The CHAIRMAN. I would appreciate it if you would provide for the record a response in writing concerning the wording, the interpretation, and the justification for that finding.

Mr. NEWKIRK. I would be pleased to do that.

[Subsequent to the hearing Mr. Newkirk supplied the following:]

The Assistant Attorney General in charge of the Lands and Natural Resources Division has advised that the Department of Justice concurs in the conclusions and the analysis contained in the Department of Energy's memorandum of law concerning limited domestic petroleum allocation pursuant to section 251 of the Energy Policy and Conservation Act.

The CHAIRMAN. Thank you.

Mr. Bullen, to what extent are other IEA countries building up their oil reserves in terms of either privately held stocks or a government owned reserve?

Mr. BULLEN. Several other countries have government owned and government financed reserves or cooperatively financed reserves. As you know, the sharing system calls for each country to have a reserve equivalent to 90 days of consumption. The Germans and Japanese have some government owned reserves. The Germans also have major programs for cooperatively financed reserves that are government managed or managed by a government corporation but funded by the private oil companies.

The CHAIRMAN. But they are managed by the government?

Mr. BULLEN. By a special corporation that is set up for the purpose. One or two of the other countries are in the process of initiating some government reserves. Quite a few of them have mandatory requirements for companies operating in their borders to have reserves equivalent to 90 days.

The CHAIRMAN. They just simply mandated that the companies assume the obligation to have that amount of reserve with no Federal, no governmental participation in the financing?

Mr. BULLEN. In a number of countries that is the case.

The CHAIRMAN. Do they get special tax treatment as a result of that inventory?

Mr. BULLEN. I do not know for sure whether they do. In countries which have price control systems they get to include the cost of carrying those reserves in the base which they use to compute their prices.

The CHAIRMAN. Could you provide for the committee a memorandum summarizing what each of the countries has done and how they accomplished it?

Mr. BULLEN. Of course we will do that.

[Subsequent to the hearing the Department of State supplied the following:]

DEPARTMENT OF STATE

Washington, D.C. 20520

NOV 25 1981

Dear Mr. Chairman:

In a hearing which your Committee held on July 20 on S.1475, a bill to extend the expiration date of Section 252 of the Energy Policy and Conservation Act, Pierce K. Bullen, Acting Deputy Assistant Secretary of State for International Energy Policy, undertook to provide to you a summary of the policies of other members of the International Energy Agency relating to stockpiling of petroleum. Pursuant to that commitment, we have collected information from our Embassies in IEA countries, and are pleased to enclose with this letter a compendium of this information for the reference of your Committee.

We would be pleased to respond to any further questions which you or your Committee may have on this subject in the future.

Sincerely,

Richard Fairbanks
Assistant Secretary for
Congressional Relations

The Honorable,
James A. McClure,
Chairman,
Committee on Energy and Natural Resources,
United States Senate

(thousand metric tons of crude oil equivalent)

	1980 Daily Consumption [1]	1980 Daily Oil Imports [1]	Stocks [1] (Million M.T) (July 1, 1981)	Days of Consumption	Days of Imports [2]
Australia	78.4	22.6	5.4	69	239
Austria	33.5	30.9	2.8	84	91
Belgium	67.1	68.9	6.6	98	96
Canada	244.2	25.5	24.2	99	949
Denmark	38.4	37.0	5.9	154	160
Germany	366.6	362.4	47.8	130	132
Greece	33.6	35.6	4.3	128	121
Ireland	15.9	16.3	1.5	94	92
Italy	265.2	263.5	24.6	93	93
Japan	650.4	662.7	66.3	102	100
Luxembourg	3.2	3.1	0.3	94	97
Netherlands	110.5	101.3	15.8	143	156
New Zealand	12.2	11.6	1.2	98	103
Norway	26.2	-39.2	2.8	107	-
Portugal	23.4	26.5	3.2	137	121
Spain	143.2	138.4	14.1	98	102
Sweden	64.5	71.8	8.4	130	117
Switzerland	36.3	37.2	6.0	165	161
Turkey	42.3	36.9	1.6	38	43
United Kingdom	221.0	-14.2	21.9	99	-
United States	2175.5	889.7	188.8	87	212
Total	4,653.7	2788.5	453.5	97	163

[1] International Energy Agency data

[2] As calculated, these numbers do not conform to IEA definitions used in determining whether member countries are in compliance with their IEA stock commitment, and therefore should not be used in making such judgements.

Stock Policies

Australia

Government holds no stocks; relies on voluntary cooperation by private oil companies in building stocks and has thus far not sought control over stock drawdown. Government has set stock target of 75 days of total consumption. Availability of domestic production equivalent to two thirds of consumption is viewed as major source of insurance against supply disruptions.

Austria

Government regulates stocks under 1976 petroleum stockpiling and reporting law. Oil importers are required by law to maintain stocks equivalent to at least 25 percent of the previous year's imports. Government maintains no stocks itself. Drawdown of obligatory energy reserves requires a finding by the Ministry of Trade that either there is a disturbance in the domestic energy market which cannot be overcome by other means or the action is required to fulfill IEA obligations.

Belgium

Government holds no stocks. Pursuant to a 1965 law and EC agreement, private petroleum companies are required to hold stocks equivalent to 90 days of previous year's consumption.

Canada

Domestic production supplies over 90 percent of consumption. Government holds no stocks, nor does it impose requirements or offer incentives for stocking by private companies. On the other hand, promise of progressive deregulation of domestic petroleum prices offers prospect of inventory profits, and thus some incidental incentives to stocking.

Denmark

Government holds no stocks. In response to trend of declining oil consumption, government in 1980 instituted requirement that aggregated compulsory stocks be at least 4 million M.T., corresponding to 3 months of consumption at the 1979 level. This has caused an increase in the overall level of stocks over the past year. Requirements for stocks of specific products are adjusted annually; they are currently in the range of 26-31 percent of the previous year's consumption. Primarily for financial reasons, Danish oil industry has formed the Association of Danish Emergency Reserve Stocks (FDO) to hold a portion of the required oil stocks. The costs of maintaining these stocks can be added to consumer prices. Drawdown of stocks is allowed only in accordance with agreed procedures under the IEA/EC emergency systems.

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Germany

The German stock scheme comprises a number of different elements:

-- A Federal Crude Oil Reserve which currently holds 7.3 million tons (55 million barrels) and will be increased further. The crude oil stocks are stored in salt domes in northern Germany. The already completed caverns allow the reserve to be raised to 10 million tons.

-- The bulk of German emergency reserves are held by the Erdolbevorratungsverband (EBV), a federally-chartered stockpiling corporation. All refiners and importers in Germany are required to be members.

-- Every oil company engaged in refining in West Germany has to maintain stocks of key products equivalent to 25 days' production in the preceding calendar year.

-- Power stations are required to maintain a stockpile of 30 days in accordance with an EC directive.

-- Finally, the government in its energy program has asked all consumers to voluntarily ensure that they have adequate stockpiles for their own needs and has recommended that industrial and municipal consumers build stocks of at least 14 days.

There has been a statutory obligation to maintain oil stockpiles in the FRG since 1965 when the government first imposed a storage requirement on refiners and dependent importers. In 1975 the requirement was raised for refineries to the present level of 90 days of average production of finished products from imported crude during the previous year; for dependent importers to a 70-day supply of average product imports; and expanded to independent importers who must hold a 40-day supply of average imports during the previous year.

The EBV was established by the oil stockpiling law of July 1978 and acquired most of the stockpiling obligations which were previously held by refiners and importers. Only the refiners are still obligated to hold a 25-day supply of stocks. The rest of their obligation (65 days) and all of the product importers' stocks were transferred to the EBV.

EBV's storage and purchase costs are debt financed and its interest and operating expenses are financed through a fee levied on all oil products subject to mandatory stockpiling. Placing obligatory stocks in the EBV removes them from company balance sheets, making available capital previously tied down by those stocks. EBV oil is segregated administratively and in part physically from commercial

inventories and is therefore under clearer emergency management control.

Greece

Storage facilities are owned and operated by refiners, one of which is state-owned. Government sets obligatory minimum stock levels for these refiners in conformity with EC and IEA requirements.

Ireland

Stocks are held by private companies in accordance with requirements set by the government. Most are stored in Britain and France (Ireland has only one refinery, and it is currently shut down). Ireland has negotiated intergovernmental agreements to assure access to these reserves.

Italy

Stocks are held by private companies in accordance with requirements set by government. Under a law passed in February 1981, dealers and refiners are required to increase their operative stocks from 90 to 100 days effective February 1982. The law also provided for establishment of a national strategic petroleum reserve, and authorized 300 billion lire ($250-300 million depending upon the exchange rate) for expenditure over a two-year period in acquiring storage facilites and initiating oil purchases.

Japan

Both government and industry participate in oil stockpiling in Japan. The government began building its stockpile in 1978. Current fill is about 8.6 billion kiloliters (54 million barrels) held mostly in tankers offshore pending construction of on-shore tankage. The Japan National Oil Company (JNOC) plans to increase fill to 11 million kl (69 million barrels) by the end of the current fiscal year (March 31, 1982). In 1980, the government set 30 million kl as the ultimate target fill level. Current plans call for achieving this target by 1988. Purchases are financed out of the government budget.

The government also requires petroleum importers, refiners, and distributors to maintain stockpiles equivalent to 90 days of the previous year's national consumption. As of September 1981, the private sector held 69 million kl of supply. The government has provided limited financial assistance to help defray the cost of the mandatory reserves. These have included loan guarantees and interest subsidies for both oil acquisition and facility construction. In addition, in the current period of declining consumption and consequent declining mandatory company reserve requirements,

the government is offering incentives to the maintenance by companies of their previous (higher) stock levels.

Luxembourg

Government holds no stocks. Oil importing companies are required by law to hold stocks equivalent to 90 days of their imports of the preceding year. Stocks are entirely of refined products and about 50 percent are held in the country where they are refined.

Netherlands

The Netherlands' stockpiling situation is strongly influenced by its role as a major international refiner and transit point for petroleum imports for northwestern Europe. Although petroleum stocks held by companies in the Netherlands are typically very large relative to domestic consumption, a substantial portion of them are held in connection with its export and bunkering operations, and hence perhaps not available for domestic use in time of emergency.

The Dutch oil stockpiling law of 1976 requires domestic refineries to hold stocks equivalent to 90 days of their domestic sales in the previous year; importing firms to hold 70 days of net imports.

Concerned about the reliability of these stocks, the government in cooperation with private oil companies, moved in September 1978 to establish a separate, government-controlled stockpile under a Central Organization for the Stockpile of Oil Products (COVA). In addition to providing the government with direct control over a quantity of oil stocks, the COVA relieves company balance sheets of the financial burden of required oil stocks, and also permitted the government to ease the stockpiling obligation of small, independent importers. The organization currently operates as an interim body (ICOVA) pending passage of final authorizing legislation.

All refining companies and most independent refiners participate in ICOVA. Its initial objective was to assume 15 days of the industry's stockpile obligation and 55 days of the small independent refiners' obligation. Subsequently, ICOVA has increased its holdings to 30 days of refiners' compulsory stocks, and, as a special case, to 40 days of gasoil, (due to inherent limitations on switching away from middle distillates in a crisis). ICOVA's stockpile is now approaching 1.5 million tons, entirely in the form of refined products, and entirely segregated from operating stocks.

Oil stock acquisition has been financed through short-term credits from commercial banks. These are being converted

into medium-term loans as interest rate conditions permit. All borrowings receive a full government guarantee. Thus ICOVA's principal expenses are interest payments and tankage rent. These are being financed by means of a modest surcharge on product sales.

In establishing ICOVA, the government required the oil companies henceforth to segregate stocks equal to 21 days of their previous year's exports and no longer to count them towards fulfillment of their remaining (now 60 days) stock obligation.

Passage of legislation giving permanent status to the COVA, expected in 1982, will bring some changes to Dutch stockpiling. An additional 10 days of the oil companies' stock obligation will be transferred to COVA, reducing their obligation to 50 days. At the same time, the amount of export stocks which they will be required to maintain separately will be increased from 21 to 26 days. It is expected that COVA stocks will be about twice ICOVA's current holdings. A portion of these will be held as crude. COVA will recover its costs through a fiscal levy connected to the excise duty on mineral oils.

New Zealand

The government has been steadily increasing its petroleum product stocks, from 100,000 tons in 1975 to 300,000 tons at present, including a national strategic reserve of 62,000 tons of diesel fuel (23 days cover).

The government has imposed no minimum stock requirement on private oil companies. However, in the short term, it is urging companies at least to fill available storage tanks, which are only about 60 to 70 percent full. There is no special government financing for private sector reserves and oil companies argue that the present rigid product price structure in New Zealand does not compensate for stock carrying costs. The government is therefore currently trying to develop a private oil stockpiling incentive scheme.

Because of New Zealand's long distance from supply sources, the government is contemplating further substantial increases in stocks over the next few years.

Norway

Norway has no stockpiling obligation under the IEA since it is a net exporter of oil. The government relies on oil companies to stockpile oil.

Portugal

The government requires Petrogal, the state oil

company which supplies 90 percent of the Portuguese market, to maintain stocks equal, on average, to 100 days of consumption above and beyond operating stocks. Stocks of certain products (including gasoline, diesel, and kerosene) must be maintained at 120 days of consumption. The government provides no financial incentives for stockholding.

Spain

A 1972 government decree requires that both government and private refineries maintain stock levels sufficient for 60 days of sales, with 50 percent of the stocks in crude and intermediate products. Crude carried in Spanish and foreign tankers bound for Spanish ports are counted in this requirement. The 60-day rule has remained in effect in spite of the IEA 90-day requirement because stocks were already, and have remained, at that level. At the present time, the private sector holds about 46 percent of total stocks. Drawdown requires government approval.

Sweden

Both government and private oil companies hold stocks for use in a peacetime emergency. Drawdown of private as well as government stocks below obligatory levels requires government approval.

Switzerland

Government holds no stocks. It sets minimum product stock levels for petroleum importers on the basis of world market conditions. The present minimum is six months of normal domestic sales.

Turkey

Stocks are held by oil companies, the most important of which are government-owned. Stocks levels do not substantially exceed the minimum required for operations due primarily to the continuing serious economic plight of the country.

United Kingdom

The United Kingdom has no stock obligation under IEA requirements since it is a net exporter. However, it is subject to the EC stockpliing requirement since the latter is denominated in days of consumption. This requirement is set at 76.5 days for the United Kingdom, 15 percent below the requirement for other EC members in recognition of the UK's net exporter status. The government itself holds no stocks, but has established minimum stock requirements for oil companies since it joined the EC.

The CHAIRMAN. We are, of course, looking at various options for ourselves, but we are also interested in seeing whether or not other countries are meeting their obligations and if so, how—by voluntary action, by Government action, by Government requiring individual company action—and if so, how they require it and how they compensate for it. I would hope the memorandum would cover those points.

You stated in your testimony that the United States is encouraging other countries to join us in increasing the level of petroleum reserves.

On what occasions have we done that, and how have we done it?

Mr. BULLEN. In meetings of the IEA at the end of the spring, we urged the need for maintaining the relatively large stocks which now exist and have suggested possible ways of formalizing a part of that.

The CHAIRMAN. It has been through meetings of the IEA?

Mr. BULLEN. Yes.

The CHAIRMAN. Not independent of the IEA?

Mr. BULLEN. It is very common that, of course, the things that we discuss in the IEA are also discussed bilaterally with the countries involved, and I am sure this subject is no exception.

The CHAIRMAN. Are we discussing with other IEA countries the appropriate size of their reserves?

Mr. BULLEN. I am not sure of that. John, do you know?

Mr. FERRITER. Mr. Chairman, to add somewhat to Mr. Bullen's comments, we have raised this issue throughout the deliberations of a special, high-level ad hoc group that was created in the IEA to review the international energy program. We have also raised it during the course of the IEA ministerial meeting in June and again during the course of a meeting July 9 and 10 of the Governing Board with company representatives. Finally, we have discussed this in bilateral contacts on the periphery of the IEA ministerial meeting. We have not been country-specific in terms of what level of stocks we think an individual country should have. We have rather urged that reserve stocks be increased since they form the first line of defense for us collectively in responding to supply disruptions.

The CHAIRMAN. Is there any consensus figure regarding the quantity of reserves, or are we just simply saying more?

Mr. FERRITER. Well, we had initially said more and the reaction to that among our IEA partners frankly, Mr. Chairman, was negative. We have sought to change the base period for calculating the 90-day reserve. The decline in oil consumption has resulted in a withering away of the base upon which the 90 days is calculated. What we and the IEA Secretariat suggested is that we pick the highest period of oil consumption and use that as the base out into the future for calculating the 90 days.

We are still in the process of seeking government responses to this proposal. There has been, as one would understand, a general reluctance on the part of those governments which finance those reserves to add additional burdens to their budgets. As one would expect, companies, which are required to carry those reserves, are also, in view of high interest rates, et cetera, reluctant to entertain higher carrying costs and higher reserves.

The CHAIRMAN. Everybody is reluctant I think. I haven't seen much enthusiasm in the past in our own Government, although certainly in the last several months we have been adding to the strategic reserve at a very high rate, although some say it could be higher and perhaps should be higher during this period of relatively lower oil prices. We have been filling the SPRO at a very rapid rate, but we haven't been entering into contracts for future delivery at an equally high rate, have we?

Mr. FERRITER. I think Mr. Bullen is the expert on SPRO issues and perhaps can answer that.

The CHAIRMAN. Could you answer that question as to the rate at which we are contracting, have been contracting within the last 60 days for future delivery?

Mr. BULLEN. I don't know what the rate is, Mr. Chairman, although we can find that out and communicate it to your staff.

The CHAIRMAN. I wonder if Mr. Newkirk might be able to answer?

Mr. BULLEN. Let me add that I understand the SPR Division of DOE has been looking into the possibility of long-term contracting but I don't know whether anything has yet resulted on that.

Perhaps Mr. Newkirk can add to it.

Mr. NEWKIRK. Well, the reserve is now being filled at about 400,000 barrels a day, and in light of the market conditions, we have been engaged in a continuous series of spot transactions which gives us significant additional oil. We are also looking into a number of possibilities for longer term contracts.

The CHAIRMAN. Have we had acquisitions in the last 60 days that were not the result of earlier contracts?

Mr. NEWKIRK. Yes, we have.

The CHAIRMAN. I wonder if you would give me a list of the acquisitions in the last 60 days along with the data from which they were contracted?

Mr. NEWKIRK. I would be pleased to do that.

[Subsequent to the hearing Mr. Newkirk supplied the following:]

List of Contracts Awarded During the Past
60 Days for Crude Oil to be Delivered
to the Strategic Petroleum Reserve

During the 60 days ending July 21, 1981, contracts totalling 22.7 million barrels of crude oil were awarded for the Strategic Petroleum Reserve. These awards were made under a continuous open solicitation which was issued on January 30, 1981. As of July 21, a total of 60.5 million barrels of crude oil had been purchased for the Strategic Petroleum Reserve under that solicitation. Awards are expected to continue on a biweekly basis. There follows a chronological enumeration of all awards under the solicitation, including those during the past 60 days:

Solicitation issued January 30, 1981 with closings scheduled every week.

	Contractor	Quantity (MMB)	Crude Type	Generic
Feb. 6		No Awards		
Feb. 13	Derby	.700	Sweet	Supplier's Option
	Amoco	.700	Sweet	Ninian
	Total:	1.4		
Feb. 20	Derby	2.000	Sweet	Supplier's Option
	BP	1.875	Sweet	Forties
	Motor Oil Hellas	.915	Sweet	Es Sider
	Total:	4.790		
Feb. 27		No Awards		
Mar. 3	Derby	2.609	Sweet	Supplier's Option
	Listo	.600	Sweet	Supplier's Option
	Houston Oil	1.850	Sweet	Supplier's Option
	Coral	1.000	Sweet	Supplier's Option
	Total:	6.059		
Mar. 10	Coastal	.600	Sour	ANS
	BP	3.300	Sweet	Forties
	Total:	3.900		

Determination made to schedule closings every other week in order to allow industry sufficient time to prepare offers.

March 31	Coastal	.650	Sweet	Supplier's Option
	Coral	1.000	Sweet	Supplier's Option
	Derby	3.600	Sour	ANS
		1.000	Sour	Suez Blend
		2.800	Sour	Dubai
		2.300	Sour	Supplier's Option
	Hess	2.000	Sweet	Es Sider
	Houston Oil	1.500	Sour	ANS
		1.500	Sweet	Supplier's Option
	Listo	1.050	Sour	ANS
	USSA	4.200	Sour	ANS
	Total:	21.600		

Apr. 21	No Awards			
Apr. 27	Determination made to defer closing approximately one month in anticipation of more favorable market conditions.			
June 9	Chevron, USA	.726	Sour	ANS
	Exxon, USA	3.000	Sour	ANS
	Conoco, UK	1.000	Sweet	Brent
	USSA	.800	Sweet	Supplier's Option
	Total:	5.526		
June 23	Derby	.900	Sweet	Supplier's Option
		2.700	Sour	Suez Blend Arab Light
	Exxon, USA	.550	Sweet	Supplier's Option
	USSA	1.000	Sour	ANS
	Amoco	.800	Sour	Dubai
	Texaco, USA	.512	Sour	West Texas
	Houston Oil	1.000	Sour	Arab Light
	Coastal	1.000	Sour	Arab Light
	Listo	.550	Sweet	Brent
	Total:	9.012		
July 9	Texaco, USA	.775	Sour	West Texas
	Mobil	1.935	Sour	ANS
	Exxon, USA	1.500	Sour	ANS
	Exxon, Int.l	1.000	Sweet	Supplier's Option
	Total:	5.210		
July 21	Texaco, Int.l	1.800	Sour	Dubai
		1.200	Sour	Oriente
	Total:	3.000		

The CHAIRMAN. Mr. Bullen, you mentioned in your testimony that the IEA study now being conducted primarily involves an analysis of the needs for IEA action to deal with smaller oil supply disruptions, that is, those below the trigger.

We were told last March that the study involved a general review of the functioning of the IEA and suggestions for improvements in the formal allocation program.

Has the focus of the study changed since March, or does the study deal with both subjects?

Mr. BULLEN. Mr. Chairman, the study deals with both subjects, although the larger portion of the review is on what measures might be considered in a crisis in which the system was not triggered. There are some aspects of the sharing system that are being reviewed also.

John, do you have anything to add to that?

Mr. FERRITER. Well, when we were talking about the possibility of increasing the 90-day reserve, that relates to the formal sharing system, so there is one area apart from discussion of subtrigger crisis problems that the review has been concentrating on.

I should add, Mr. Chairman, on the question of 90 day reserves, that most IEA countries have 90 days or more, so it is not that we are concerned that most of the IEA countries have less than that.

The CHAIRMAN. Is the 90-days reserve relative to their total petroleum consumption or their import needs?

Mr. FERRITER. Imports.

The CHAIRMAN. Imports only?

Mr. BULLEN. Mr. Chairman, it is related to their total consumption, but the way the undertaking is phrased, they are required to

have enough reserves to cover their needs for 90 days without imports, and so in practice it in fact is based on imports.

The CHAIRMAN. Does that also consider the sharing requirements of the IEA?

Mr. BULLEN. The sharing system makes provision for the use of stocks by each country as a means of reducing demand for imports.

The CHAIRMAN. Is that true of our country?

Mr. BULLEN. Yes. Our undertaking, like that of the other IEA countries, is to achieve a mixture of demand restraint or reduction in demand and stock draw which adds up to the total reduction in oil that would be received in the United States during the period of disruption.

The CHAIRMAN. That includes also the stock draw that would be required to meet the sharing requirements?

Mr. BULLEN. Yes, sir.

The CHAIRMAN. It is obvious, of course, that part of the concern is that if one country builds up a reserve and has a sharing agreement, that in the event of a supply interruption the country that has the greatest reserves would be the one upon which the others would draw.

Mr. BULLEN. Mr. Chairman, let me comment on that because the way the system is structured, the result is somewhat different. Let's suppose that there were a shortfall of 18 percent of available supply.

Under the sharing system, each country would wind up with 18 percent less oil than it had during the base period, and the sharing system presumes that 10 percent of that would be covered by reduction in demand and 8 percent would be drawn from stocks.

However, how much oil each country in fact draws from stocks and how much of the shortage is covered by reduction in consumption would be up to the individual country to decide, and as a result the country with very large stocks has the option of not reducing demand by as much as it would be oblized to otherwise. But there is no question of stocks themselves being exported to other countries.

The CHAIRMAN. But if a country decided to reduce demand by 8 percent and draw from its own stocks, but it had insufficient supply to draw from its own stocks, from where would the supply come?.

Mr. BULLEN. The country would be faced with the need of reducing consumption by more than the 10 percent presumed.

The CHAIRMAN. They could not make up the shortfall by drawing upon those who had it?

Mr. BULLEN. Not under the system; of course, a sovereign country can decide voluntarily to give some other country a share of its supply.

The CHAIRMAN. They can't demand it?

Mr. BULLEN. They cannot demand it.

The CHAIRMAN. Mr. Carr, one of the questions asked at the hearing in the earlier extension of the date was whether or not the oil companies had been meeting and consulting and the answer was yes, they had.

The answer was also expanded by indicating that there were representatives of the Department of Justice at each of those meetings save one or two.

Mr. CARR. Very few.

The CHAIRMAN. And at those meetings the Federal Trade Commission had representatives, if I recall correctly. Is that not correct?

Mr. CARR. That is correct.

The CHAIRMAN. Has that pattern also continued since the last hearing on this matter?

Mr. CARR. Yes. Yes, it has.

The CHAIRMAN. There have been no meetings to your knowledge of the oil companies pursuant to the sharing of information provisions under the IEA that were not monitored by the Justice Department?

Mr. CARR. To my knowledge there have been none.

The CHAIRMAN. Does the FTC continue to monitor?

Mr. CARR. Yes.

The CHAIRMAN. Thank you very much. Senator East?

Senator EAST. Mr. Chairman, I just wanted to ask a question or two if I might. I notice the Washington Star reported on March 15 in an article of this year the simulated study on IEA, and I gather the Department of Energy was reviewing that more thoroughly, but whether the article is accurate or not I don't know, but it was a rather pessimistic view that they took of this whole operation. They say:

> Oil crisis computer games poses chaos and confusion—international mechanisms designed to share oil supplies in a crisis broke down in confusion and chaos during a recent game carried out by a Paris-based IEA agency. The game simulated a sudden 20 percent drop in world oil supplies.

It is quite a lengthy article which according to an international DOE, or internal DOE memorandum summarizing the shortfalls of the game ". . . . left U. S. planners with serious doubts about the capability of industrial nations and multinational oil companies to minimize the sharp political and economic shock of such a crisis. We have conscientiously asked ourselves whether we believe the system would function effectively in an emergency. We do not believe it would," states the article which was obtained from the Washington Star, and they quote various State official officials in California and Florida that show that California was glutted with gas, Florida was very short on it, creating a serious loss in terms of tourism and so forth.

I am just inquiring whether in the long run—I am directing this to anyone who might wish to respond to it—whether this arrangement, just looking down the road as events change and evolve, whether this arrangement is necessarily in the best interests of the United States. For example, one, if the studies indicate that it doesn't really work very efficiently, maybe it is an age-old problem of too much bureaucratic entanglement that makes it well nigh impossible to do in practice what looks very good on paper.

Second, I was wondering in view of the commitment of this administration to improve our domestic oil production to make ourselves more independent and self-sufficient whether in the long run we might not be better off in terms of ensuring our own oil

reserve and oil independence to work our way out of this, or is this something we want to go on indefinitely and get more deeply and deeply involved in?

I am not coming down on all fours against it. I am really just inquiring based upon this initial study of it, based upon our hope for increased domestic production, ultimately what we must be primarily concerned with is the best way in which the United States can ensure its energy independence and viability.

After all, in an international crisis if the United States does not have the energy and the oil to move its industrial machinery as well as its military capability, we really have an enormous world crisis. Other countries, smaller countries, not to deprecate them, but they can certainly endure a shortfall for a longer period of time than we could, and I am just wondering, just raising the question, is this in the best interests of the United States and the world stability over the near term and the long term, or are we looking for ways to maybe move out of it into a more independent, self-sufficient, self-sustaining posture?

Mr. NEWKIRK. I think there are a couple of points I would like to make in an off-the-cuff response to your remarks, Senator.

First is that the study on which the Washington Star article is based was a draft study prepared by staff people in the Economic Regulatory Administration of the Department of Energy. Senior officials of the Department have not endorsed that study nor do they agree with it, and we believe that in the event it became necessary to activate the system, that the sharing system would work.

The second point is that what we had last fall was a test, and I would not suggest that it ran perfectly. The reason one tests things is to try and figure out where they work and where they don't, and then figure out how to fix what turned out to be wrong. The work that has gone on in the Department to analyze the weak areas in the test I think has proceeded quite successfully.

As to the overall policy question of whether the United States is better off or worse off as a member of the IEA, at the moment the United States, while it has substantially reduced the amount of oil that it is importing, is still importing approximately 4.7 million barrels of crude oil and products a day, and a serious supply interruption would have serious repercussions for the United States as well as for the rest of the industrialized world. Our analysis indicates that a collective response among the IEA partners would reduce some of the GNP losses that would result from an interruption itself and would reduce the ongoing costs that the United States incurs in preparing for the possibility of a disruption. I would like to ask Mr. Bullen to comment further on this matter.

Mr. BULLEN. Yes. Mr. Senator, let me reinforce that. We very definitely believe the system would work if it were triggered. The test has shown some things that can be improved and that is what tests are for.

For example, one of the things mentioned in the staff study to which you referred was the need for some improvements in the data system. The data experts of the various countries have been working together in the past 6 months to analyze the needs, and to

improve the quality of data and have made considerable progress there.

You also mentioned the differing effects in Florida and California. Of course, the international sharing system is not really designed to take care of the situation in individual States. That is more something that the Federal Government would take a hand in or that would be left to the market. It is not something that the international system is directly aimed at.

Another thing mentioned in the study was the need for working closely with industry in handling any crisis. This purpose is in fact served by extension of the antitrust authority that we are discussing today. Extension of the antitrust clearance will assure that Government and companies are able to work together closely in a crisis.

When you look to the broader picture of U.S. self-sufficiency, on the one hand I think it is apparent that we will have significant oil imports for a long time even though one hopes not as great as in the past. But even aside from that, oil supply crises threaten the major economic and political relationships between the United States and the other industrialized countries, as Mr. Newkirk said. The economic losses from a sudden crisis can be reduced by coordinated action among the IEA countries. The losses could be aggravated by uncoordinated, every-man-for-himself types of action.

On the political side, that is true also. We really rely on the support of the other countries on international, political, and economic issues. They would be less confident of their ability to stand with us if they did not have the reassurance that we were all prepared to stand together in some kind of severe oil crisis.

Senator EAST. Well, I appreciate your thought on that. One reservation I have about it, relating it just generally to the international political scene, you are suggesting there is a dividend here involved in international affairs when you are cooperating with other nations, somewhat of an intangible, subtle thing, but it is there and cannot be overlooked which I don't necessarily disagree with, but I am concerned that that point ultimately take priority over what I consider the more compelling need in this context of energy self-sufficiency for the United States.

If you enter into this kind of agreement on an indefinite period of time and it becomes an end in and of itself in order to further international cooperation, the other side of the coin is you then are arguing—I don't mean you are, but the argument might be maybe we really ought not to try to achieve energy self-sufficiency or we ought not try to increase our own domestic production to such a high level because then we wouldn't really need this and we would be getting out of it, and then that might suggest we are not cooperative with other countries in the world, and I am not at all opposed to cooperating with other countries, again depending on the context and circumstances of the situation and what we are trying to achieve, but I would still say that the top priority item in the energy field for the United States, and I gather it is a policy of this administration, is to work as diligently as it can toward energy independence as a total package, and certainly in the oil and gas area because if we do not we all know we are hostage to the rest of the world.

This mechanism, whatever virtue or utility it has in an energy sense or in terms of international cooperation, the troublesome thing I find about it is it may be an end in and of itself and suddenly take priority over achieving energy independence.

I don't mind sharing with other countries, but I am first and foremost concerned about our energy independence, our capacity to deal with shortfall, our ability to maintain our industrial and military capacity during an international disruption. I am willing to share with other countries once I am confident our own needs have been met, and it is very likely I am arguing, and I don't wish to sound too self-serving in terms of the United States, but in a general international crisis, let's say a crisis in the Middle East, and some sort of potential complication between the United States and the Soviet Union, it is imperative, infinitely more imperative that we have the capability of maintaining our industrial and military capability than it is some of these smaller nations who I am not suggesting ought to permanently be relegated to an inferior status, but this is designed to be in a crisis, and in a crisis I want to make sure that we do not lose any edge or advantage we might currently have even under our limited productive capacity and even at a time when we must import oil.

To my point lest I get too extended in my remarks, I gather it is still the policy of this administration to achieve energy self-sufficiency and this arrangement is merely temporary or is subordinate to that, it is not a substitute for it, is that not correct?

Mr. BULLEN. Senator, yes, this is not a substitute for energy independence, and I think everyone is agreed on the need to do as much as possibly can be done to improve U.S. domestic energy production and move toward energy independence. The two objectives, domestic energy self-sufficiency and international cooperation, are not inconsistent at all. Indeed they are mutually reinforcing, and that is why one of the fundamental principles of the IEA which member countries have been urging on one another over the years is increased domestic energy production and thus an increased level of self-sufficiency in the IEA as a whole.

We have been talking in this session about the short-term emergency program of the IEA for oil sharing. At the same time, the IEA has a very fundamental long-term program to encourage increased energy self-sufficiency in all members countries and hence reduced reliance on imported oil in the long-term context. Mr. Ferriter has been working on that program and might like to add to it.

Mr. FERRITER. Yes. Thank you. I agree fully with what Mr. Bullen has said. The IEA sharing system is only one element of a broader program within the IEA. In the long-term context, the thrust of the program is to reduce our collective dependence upon oil and to increase the other energy sources that are available to us.

The CHAIRMAN. I wonder if you could hold the mike closer? I think the people at the back of the room are having trouble hearing.

Mr. FERRITER. For example, in the area of coal, there are efforts underway to increase the use and production of coal. Similarly with regard to nuclear; we have placed substantial emphasis on the

need to pursue actively the development of nuclear energy programs in the IEA countries, all of this with the aim of improving the energy mix of the IEA countries and of reducing their vulnerability to oil disruptions. So, as Mr. Bullen has said, the effort of the IEA in the long-term complements our own domestic efforts toward energy self-sufficiency, and we view the IEA, therefore, as an extension of our domestic activities and an essential element in our energy security package.

Thank you, Mr. Chairman.

Senator EAST. I have no further questions.

The CHAIRMAN. I wonder, before turning to Senator Murkowski, if either of you could tell us what you mean by the term self-sufficiency or independence in energy?

Mr. BULLEN. One of us has to respond to that one. I think we used that term in our response because it was used by Senator East. Obviously the ideal, if one or when one is able to achieve it, would be a balance of energy imports and exports, so that there are no net imports.

The CHAIRMAN. You are talking about zero imports?

Mr. BULLEN. Well, you pose what I think is at this moment in time a theoretical question. That is what it could be, but it is really a matter of degree. We start out from a situation a couple of years ago where the United States was importing 8½ million barrels per day of oil. Events in the market have now reduced it to about 6 million barrels per day or thereabouts. I don't have the exact number in my head. That still is a substantial amount of oil, about a third of our total consumption, so, while some progress has been made, we obviously still have quite a long way to go to get close to the theoretical level of zero imports.

The CHAIRMAN. I wonder, Mr. Newkirk, if you would like to add to what self-sufficiency means, or independence means? That is a term that goes back a number of years.

Mr. NEWKIRK. It goes back a number of years, and it is really outside of my bailiwick as a lawyer, but what I suppose it means is what Mr. Bullen said, that there are no net imports of oil or perhaps other energy sources.

Of course, there are costs associated with that and the difficult policy decision is determining what level of costs you are prepared to bear in order to achieve that result.

The CHAIRMAN. I took this time because that is a change in policy if indeed that is the policy. It has been stated for at least 10 years that energy independence is to reduce that level of dependence that makes the United States vulnerable to economic and political extortion, or that distorts either our economy or our foreign or domestic policy.

It does not necessarily mean absolute zero in imports. I might add, too, it ignores the fact that we are expanding and seeking to expand the import of energy from Canada and hoping to expand import of energy from Mexico, so I think the answer was somewhat superficial and also, in my judgment, either a great change in policy of this administration or an inexact answer to the question.

Mr. BULLEN. Mr. Chairman, may I apologize for the inexactness of our answer. The way in which you formulated it is the correct one, and of course the basic focus is, as you implied in your state-

ment, on vulnerability to interruptions in oil imports rather than in imports of other forms of energy such as natural gas.

The CHAIRMAN. At one time we did import some oil from Canada. I don't know that we would object to it if they were to allow us to buy some now. We are seeking to buy some from Mexico, and I suspect if they would sell us some on favorable terms we would buy it, would we not?

Mr. BULLEN. Yes; of course.

The CHAIRMAN. Would that be in opposition to our goal of energy independence if we were to do that?

Mr. BULLEN. I guess that depends on how one defines energy independence. I think one would be confident of the security of supply of the source in that case.

Senator EAST. I would just like to comment on that. You raise a good point, Senator McClure. I suppose that by energy independence here and self-sufficiency it is understood in the context of the larger world stage, the current situation in the Middle East, that we have been so dependent on oil in that area that disruption there is a serious possibility in terms of the reality of a power conflict, and I would certainly agree that if you were able to insure a steady flow of oil from Canada, for example, of stable trading partners, then the question of self-sufficiency is, a literal test of zero imports becomes less meaningful, but as you have suggested, Mr. Chairman, when we live in a world in which we have been dependent upon Middle Eastern oil to the degree that we have and other undeveloped parts of the world where the political situation is very volatile, very changeable, to be dependent upon that in terms of a steady source, there the term energy self-sufficiency, independence, takes on very real meaning, and I would submit it ought to be the goal that the United States ought to turn to. It ought to improve its own domestic production to the limit that it can, and certainly where it can find more stable trading partners, be it Canada or possibly Mexico, then that is a good situation, too, but I would even contend with Mexico, with the deterioration in Central America, with Nicaragua, El Salvador now going the way of all flesh there, and the pressure on Guatemala and Honduras, I wouldn't be surprised to see the guerrilla pressure mount on Mexico and the Mexican oil fields, so even in our own hemisphere in terms of balance of power in the world today we can't take anything for granted.

It might be Canada would be one country we could count on would be relatively stable for the near term, so it is a relative term, but it is a very meaningful term in the context of current international politics.

That is what I would say. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. Mr. Carr, in your statement on page 2 you make reference to:

> The centerpiece of the IEP agreement is a system to handle oil supply interruptions which result in a reduction of the supplies available to an individual nation. * * *

and you further state:

> The system involves the sharing of oil according to a carefully constructed formula in which each nation has an obligation to reduce its net imports * * *.

et cetera.

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My curiosity is aroused by the interaction between that and the application of having a strategic petroleum reserve vis-a-vis a nation that doesn't have that but is or has a lesser one, and I am curious to know how a sovereign nation who has the strategic petroleum reserve relates to the IEP at which time there may be a shortage as a consequence, there would be allocation.

My question to you is having the strategic petroleum reserve has what effect upon any given situation where it is necessary to allocate under the IEP?

Mr. CARR. I think I had better defer to my colleagues in the Energy Department or the State Department for the response to that.

Mr. BULLEN. Yes, Senator. The presence of a large SPR or an SPR as large as we have gives the United States additional reserve power that some of the other countries in the system don't have.

Senator MURKOWSKI. Does that mean that they could or could not draw on our SPRO?

Mr. BULLEN. The system does not call for sharing of stocks, and other countries would not as a matter of right in the system have a right to draw on SPRO.

If we chose to use SPRO as an element in fulfilling our own obligations, we could do so. The sharing system calls for each country to receive based on an historic base period the same proportionate share of newly available oil as every other member country. Oil that was purchased and stocked in an earlier period by any country would be for use by that country as it alone saw fit.

Senator MURKOWSKI. In the event that we were under contract, SPRO was under contract to purchase oil from an industry member and we had an emergency occur, let's say in one or two of the member countries, and we invoked the international energy program, would that necessarily cancel the contractual relationship between the company and the Federal Government who is filling the SPRO? Does that terminate SPRO's ability to contract during that time?

Mr. BULLEN. No; it would not. You pose the question of a selective trigger, where one or two countries have a severe shortfall. In that case, we would cooperate with the other member countries in filling that country's need just as in the reverse situation, if we were struck by some kind of embargo and had a severe shortfall, those countries should be in a position of making up most of the reduction to us. But activation of the IEA system would certainly not void SPR acquisition contracts.

Now of course, if the whole market were very tight, there could be a need for a policy decision as to what the most sensible level of continued SPR purchases would be, but that would be a decision to be made by the administration at that time.

There is no direct relationship at all between SPR contracting and the sharing system.

Senator MURKOWSKI. What happens pricewise during the time when the IEP would be involved? You are looking first of all at whatever the industry reserve that they might carry is. That would be called upon, and then they would be directed to allocate into

certain industries, agriculture, whatever, as dictated by the Government, is that correct?

Mr. BULLEN. The system does not call for the sharing or allocation of stocks, and it does not call for anything particular in the sense of allocation within a member country. A member country could very well participate fully in the 12A system and at the same time avoid any domestic allocation with the exception of such limited allocation of crude oil among refiners as might be required to insure that, if it had an obligation to offer up oil in the international system, the companies involved would be willing to do so. And even that limited need, which is a practical requirement of the IEA system, wouldn't reach beyond the refiner stage.

Senator MURKOWSKI. Mr. Chairman, just an observation—I have only been here 6 months, but it seems to me that we are sadly lacking in a committed energy policy in this country. I think in the last one we had, the Truman administration perhaps, he commissioned some, but it was a definite policy, and it seems that we occasionally trip over ourselves in our bureaucratic efforts to achieve energy independence, and when I reflect alone on the status of the Alaska gas pipeline, the contribution that it can make to our energy independence and the continued bureaucratic entanglement that that project is in, and I look at the language proposed by the House with regard to its ability to proceed and fill the strategic petroleum reserve by making it more restricted which enables the people involved to make it more difficult to acquire the crude, it seems to me, Mr. Chairman, that we are truly in need of some long-term goals associated with our energy policy.

I have no further questions, Mr. Chairman.

The CHAIRMAN. Thank you very much. I want to announce that Senator Bradley had intended to be present this morning. When the hearing was set he had expressed concern that he was not going to be able to be back in time to ask questions and to participate in the hearing, but he did plan to be back shortly after 11 o'clock.

I have been handed a note that said he was delayed in his return, will be unable to be back this morning, but he will expect to submit questions for the record.

I would like to state for the record on behalf of Senator Bradley that he is concerned about the extension of section 252 without the analysis he requested and was promised by the administration. I think he would want to be on record as saying that he cannot support the extension without the reply to the questions which he has submitted earlier.

Senator Metzenbaum will also have some questions for the record, and I would like to note for the record what is obvious on the face of the bill, which is that Senator Jackson is a cosponsor of this legislation and has a great interest in it.

I might ask just one or two more questions. Under section 251 I understand the administration's position to be that they have the authority for domestic petroleum allocation.

I also understand that the administration believes that it does not have the authority to set prices on domestic petroleum, and yet I notice that the authority for allocation and the authority for price setting are both contained in section 251. You might for the

record, if you would like, submit to me a rationale by which you distinguish one authority contained in the section and deny the other authority contained in the section.

Mr. NEWKIRK. I am not aware of the distinction which you mention. I will go back and attempt to ferret out the source of that information on the rationale.*

The CHAIRMAN. Maybe the grapevine isn't working correctly or maybe I heard it wrong.

Mr. NEWKIRK. I think that subject to providing a fuller answer, I think that it is clear to me that section 251 does not provide a basis for the type of comprehensive domestic price controls which we had for the last 7 years, but with respect to particular transactions in support of the international allocation system, my reading of the statute, subject to finding out that I am wrong, is the same as yours.

The CHAIRMAN. Section 251 provides for the promulgation of a rule and the submission of that rule to the Congress. That has been done, has it not?

Mr. NEWKIRK. Yes, sir.

The CHAIRMAN. Do you recall the date when that rule was transmitted to the Congress?

Mr. NEWKIRK. The statute provides, I believe, that the rule must be transmitted to Congress before it is activated. There is a standby rule in place now that I think was promulgated sometime in 1979, but I need to check and provide an answer for the record on that. But my recollection of the statute is that it does not need to be submitted at the time it is promulgated, only before it is activated.

[Subsequent to the hearing Mr. Newkirk supplied the following:]

RULE PROMULGATION

Three rules have been promulgated pursuant to Section 251 of the Energy Policy and Conservation Act. On January 9, 1979, the Standby Allocation Regulation, 10 C.F.R. § 211-1 was issued (44 F.R. 3418, January 16, 1979); it was amended in 45 F.R. 55377, August 19, 1980, and further amended in 46 F.R. 20508, April 3, 1981. The Standby Mandatory Allocated Crude Oil Pricing Rules, 10 C.F.R. § 212-1, were issued on January 9, 1979 (44 F.R. 3418, January 16, 1979), and were amended in 46 F.R. 20508, April 3, 1981. The Standby Mandatory International Allocation Rules were issued on May 7, 1979 (44 F.R. 27969, May 14, 1979).

Before these rules may be put into effect to meet U.S. obligations under the International Energy Program, Section 251 requires the President to transmit them to Congress, along with a finding that putting the rules into effect "is required in order to fulfill obligations of the United States under the international energy program", and a statement of the effective date and manner of exercise of the rules. The President has not yet formally transmitted these rules to Congress. Section 251 further specifies that no rule may be put into effect or remain in effect after the expiration of twelve months from the date of transmittal to Congress.

The CHAIRMAN. It is your assumption it has not been transmitted to the Congress?

Mr. NEWKIRK. That is an assumption, yes, sir.

The CHAIRMAN. Would you provide for the record your perception of what the statute is? It was my recollection that the rule had been submitted and that there is the 12-month limitation under 251(b)(2), and if it were required to be submitted in the first instance, I would assume that it would be resubmitted pursuant to that 12-month limitation.

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*See "Memorandum of Law on Section 251 of the Energy Policy and Conservation Act," pp. 56.

There has been a great deal of concern expressed both officially and semiofficially, and certainly privately and unofficially throughout many areas in our country with respect to recent events in the Middle East. The Israel raid on the Iraqi nuclear installation, the more recent escalation of the attacks by the PLO, and the Israel bombing in southern Lebanon in retaliation or in response, or as preemption for possible future strikes, all leads to a belief on the part of many people that we have been very near the point of open hostilities, and to a fear on the part of many that we may be progressing in that direction relatively more rapidly.

Are we in a position now in the IEA to respond to that kind of an immediate threat if, this afternoon or tomorrow morning, or had it happened yesterday morning, there were an interruption of oil supplies as a result of the Middle East conflict?

Mr. BULLEN. If there were an interruption of the scope needed to trigger the sharing system, it would be possible to activate it. Of course, there are a number of things that would have to be done, one of which is submitting the implementation plan that we just spoke of, but the people who are involved in working on it have gone through a lot of training and preparation, and it could be done.

The CHAIRMAN. Now, I assume that when you say resubmit the plan, that it would be possible to make changes in that rule? Do you know of any changes that are contemplated that might be contained in the resubmitted version?

Mr. NEWKIRK. I do not know of any.

The CHAIRMAN. So if we were to look at the rule as originally submitted, we would contemplate that that is likely what the administration would resubmit in the event of such resubmission?

Mr. NEWKIRK. It would certainly be the starting point.

The CHAIRMAN. Starting point—that doesn't tell me what the ending point is.

Mr. NEWKIRK. That is because I cannot, Senator.

The CHAIRMAN. You don't know of any changes?

Mr. NEWKIRK. No, sir.

The CHAIRMAN. So unless there were changes that might have come up in somebody's mind in the past which you don't know of, or in the future which you couldn't know of, it would be the same rule?

Mr. NEWKIRK. It would be reviewed before submission.

The CHAIRMAN. I'm sure that is correct. Are there any further questions? If not, thank you, gentlemen, and I hope you will be able to respond promptly to the questions that will be submitted by members of the committee.

The committee is adjourned.

Mr. NEWKIRK. Thank you, Mr. Chairman.

[Whereupon, at 11:22 a.m., the hearing was adjourned.]

APPENDIX

Answers to Additional Questions From the Department of Energy

Responses to Senator Bradley's Questions for the Record
Hearing before the Senate Committee on Energy and Natural Resources
July 20, 1981

Q1. The discussion at the July 20 hearing of the U.S. energy policy objectives was confused and inconsistent. Please define energy independence, energy vulnerability and appropriate U.S. policy toward each. Reference to the recently published NEP III would be useful.

A1. Energy independence and energy vulnerability are multi-faceted concepts involving foreign policy questions, stockpile management, issues concerning energy production, and rational decisions on development and use of alternative energy sources and imports. As the Administration noted in the National Energy Policy Plan, submitted to Congress on July 17, 1981, efficient displacement of imported oil is an important objective, but totally eliminating energy imports is unrealistic and achieving a low level of imports at any cost is not a major criterion for the Nation's energy security and economic health. The U.S. has an important stake in the economic security of other nations and cannot isolate itself from events in world oil markets by eliminating oil imports. The U.S. energy policy must be based on market realities. Even at its current high price, imported oil in some cases is substantially less expensive than available alternatives. In these cases, imports are preferable to indiscriminate subsidies for alternatives which offer little hope for short-term to mid-term savings. Federal spending should be considered only in those promising areas of energy production and use where the private sector is unlikely to invest.

The concept of energy vulnerability is intertwined with energy independence and energy security, and refers to the ability of other countries to exploit our dependence upon imported energy in order to force an alteration in our foreign, economic or defense policies.

Energy security recognizes our interdependence with other countries and the necessity to cooperate with our foreign allies and trading partners to reduce our energy vulnerability. We are committed therefore to continuing participation in the International Energy Program; we have stated our intention to increase oil stockpiles against potential disruptions in the world market, and to eliminate impediments that could discourage effective private sector responses to future disruptions, and have urged other IEA member nations to do likewise. We also continue to expect to conduct international energy trade with our neighbors and other trading partners to our mutual benefit.

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Q2. Neither the IEA evaluation of the sharing agreement nor the Administration's analysis of emergency options has been completed. Why should we extend the antitrust exemption without both of these analyses?

A2. The Administration's analysis of emergency options was transmitted to Congress on July 23, 1981. The IEA evaluation, under the auspices of the High Level Ad Hoc Group on the IEP, is continuing to refine IEA Secretariat proposals for a non-emergency data monitoring system and for IEA responses to sub-trigger emergencies. The Administration has advised IEA members that it is opposed to formal subtrigger mechanisms. Therefore, the IEA review will not affect the U.S. position on the need for extension of the current antitrust exemption.

Neither of these studies questions continued commitment of the U.S. or of IEA member nations to the IEP as it presently exists. We believe that the mechanism currently in place remains the best available way of responding to a severe international oil crisis. The success of the IEA oil sharing and information systems depends, in large part, upon the voluntary cooperation of the international oil companies. Section 252 provides an antitrust defense for U.S. oil companies without which they would not be willing to participate in the activities of the IEA. Thus, an extension of section 252 is critical to the continued viability of the IEA oil sharing and information systems.

Moreover, the U.S. Government has monitored industry participation in the IEP closely, and consistently has concluded that no anti-competitive effects have been experienced by reason of industry activity under the Voluntary Agreement. Consequently, we believe that there is no reason for limiting the extension of Section 252 to a short term, and that limited extension can only raise unwarranted questions in the minds of our allies as to the degree of commitment of the U.S. Government to international energy cooperation. Long-term extension of section 252 will in no way foreclose consideration of amendments which streamline its implementation, should the Congress or the Administration deem such amendments desirable.

Q3. What other IEA nations grant antitrust defenses for IEA participation?

A3. The European Economic Community (EEC) imposes, through the Treaty of Rome, the primary European antitrust restriction on companies under its jurisdiction. The Treaty of Rome supersedes national law with respect to trade between EEC member states to the extent that it is inconsistent with or more stringent than the national laws. National laws may regulate company actions within a particular country and may be more stringent than the Treaty of Rome.

An EEC clearance for company participation in the IEA, called a "light negative clearance", has been in place since 1976. This clearance is similar to a Business Review Letter issued by the Department of Justice, or a Federal Trade Commission Advisory Opinion, and seemingly has been regarded by IEA Reporting Companies as adequate protection against EEC or EEC member government antitrust action in connection with IEA activities. However, as a result of a recent Federal Republic of Germany court decision recognizing a private right of action under the Treaty of Rome, the international oil companies now are actively considering a proposed petition to the EEC Commission for a formal exemption or formal negative

clearance under that Treaty. Either of these instruments would afford greater antitrust protection for companies participating in the IEP.

We are aware of antitrust provisions in five IEA member countries; clearances for company IEA participation, to the extent they are available, are granted on a more routine basis in these countries than those issued by the U.S. under EPCA. Representatives from each country have expressed the belief that their antitrust laws pose few problems for companies participating in the IEP.

Of the EEC member nations also belonging to the IEA, only the United Kingdom and the Federal Republic of Germany impose antitrust restrictions in addition to those contained in the Treaty of Rome.

In the United Kingdom, the Restrictive Trade Practices Act of 1976 is administered by the Office of Fair Trading within the Department of Trade. An exemption from the Restrictive Trade Practices Act is granted by the Energy Act of 1976 for certain company agreements of which the government is aware or to which the government is a party which are entered into during an emergency.

When a branch of the United Kingdom government believes it is necessary to request concerted company actions, the requesting agency normally will inform the Office of Fair Trading of the request. That Office will issue a limited clearance letter for the requested activities, and the clearance will provide an assurance that the government will not bring an enforcement action against the companies based on the Restrictive Trade Practices Act. This procedure is not followed for company submission of IEA Questionnaire A or for company consultations with the IEA because these activities are considered a part of the obligations of the United Kingdom under the IEP and not potentially violative of the Restrictive Trade Practices Act.

In the Federal Republic of Germany, the Law Against Competition Distortions is considered more restrictive than the Treaty of Rome. The Energy Security Law, however, authorizes companies to participate in all organizations discussing crisis management, and provides some protection from the provisions of the Law Against Competition Distortions for these activities. At the same time, the Cartel Office within the Economics Ministry is kept informed of all company crisis management activities and may monitor any meeting held for

that purpose. The Cartel Office has reviewed the framework for company participation in the IEA and has issued a general policy letter informing the German companies that it anticipates no antitrust difficulties arising from these activities.

Among non-EEC members belonging to the IEA, only Canada, Australia and Japan have applicable antitrust requirements. The Canadian Energy Supplies Emergency Act of 1979 provides, upon a Parliamentary declaration of emergency, a statutory exemption from the provisions of the Combines Investigation Act of 1978 for companies participating in the IEA. During non-emergency periods, the Energy Supplies Allocation Board determines whether proposed company meetings and activities are within the scope of activities allowed by the Energy Supplies Emergency Act. If an affirmative determination is made, the Board issues an informal antitrust clearance. Companies may also seek a formal clearance from the Combines Branch, Ministry of Consumer and Corporate Affairs.

The Trade Practices Act of 1974 is the relevant antitrust provision in Australia. We are informed by the Australians that the coverage of the statute is much less broad than that of the U.S. antitrust provisions, and that the Act should pose no obstacles to company participation in the IEP. While there is no statutory exemption from

the Act for company activities under the IEP, application can be made to the Trade Practices Commission for clearances and authorizations of specific activities. A "public interest" test is applied by the Commission when ruling upon the application.

Finally, in Japan the Act Concerning Prohibition of Private Monopolies and Maintenance of Fair Trade (Act #5-4 of 1947) is the applicable antitrust provision. The Petroleum Industry Act gives the Ministry of International Trade and Industry broad energy emergency authority. While there is no statutory exemption from the antitrust act contained in the Petroleum Industry Act, and the Ministry is not empowered to grant companies immunity from the antitrust laws, it is generally understood that the government policy favoring cooperation with the IEA will override any potential antitrust difficulties. Close government-company cooperation is the general practice in Japan. Accordingly, most company actions would be cleared informally in advance by the government, and are generally viewed as taking place at the request of the government.

Q4. Is the drawdown of world oil stocks a matter of concern? What policy options is the Administration considering? Would new legislation be useful?

A4. There are indications that private industry may at this time be reducing discretionary stock levels somewhat in order to reduce the cost of holding large inventories and to reduce marginal refining losses. Given the current high level of public and private stocks and the decline in consumption, this is not a subject of undue concern; in any case, this is an understandable trend, which government can do little to influence in a constructive manner through mandatory or exhortative measures. The elimination of allocation and price controls is the single greatest possible inducement to the maintenance of private stocks; the expiration of the Emergency Petroleum Allocation Act should further encourage the building of such stocks, without apprehension that they ultimately might be allocated away from the person developing them. We will, of course, continue to monitor private stock levels.

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